PREFACE

Apart from occasional references in the Dharmakośa, my first acquaintance with the Vyavahāracintāmaṇi goes back as far as Spring 1952 when I had the opportunity of examining a manuscript of the text in the India Office Library. The active search for manuscripts was started during my stay in the Deccan College Postgraduate and Research Institute, Poona, during Winter 1953-54, and the first manuscripts were collated in Summer 1954. Meanwhile the work has steadily grown both in India and after my return home, so that the final result can now be offered to those interested in the evolution of the Hindu Law.

The publication of the counterpart of the Vivādacintāmaṇi hardly calls for justification. The reason why the latter has known not less than three editions whereas the former has none, should not be sought in the respective value of the works themselves, but it is of a purely accidental character. Had not the later rulers of India thought it fit to preserve the ancient Hindu Codes in civil matters but to replace the traditional adjective law by a system influenced by their own, the Vyavahāracintāmaṇi might very well up to this day have claimed the authority which the Vivādacintāmaṇi still enjoys.

A few remarks as to the structure of the present volume might not be out of place here. The TEXT has been constituted not upon the basis of "selective readings" but according to a strict application of the rules of textual criticism. The latter doctrine has primarily developed in Greek and Latin philology and, consequently, its terminology has been largely borrowed from these languages. The readers who are not familiar with it might be referred to the valuable little book of Dr.S.M.Katre: "Introduction to Indian Textual Criticism". Poona [2]1954.

Anybody who has been concerned with translating Sanskrit technical works into a modern language will be aware of the difficulties involved. One is not seldom faced with Sanskrit passages which defy any translation into another language. It has been tried to produce a TRANSLATION which is sufficiently free to make even these passages understandable without referring to the Sanskrit text. On the other hand, it has been carefully avoided to introduce any changes which might alter the nature of the original text. In many cases further elucidation will be found in the notes.

The APPENDICES have been construed upon the basis of a few years' experience in consulting dharmanibandhas for various purposes. It is hoped that they will make easy reference possible and, thus, contribute to make the book a workable instrument for further research.

Again and again I have experienced the difficulties presented by expressing rather intricate ideas in a language other than one's own mother-tongue. I dare hope, that the readers will kindly forgive any shortcomings in that respect.

Finally, it is a pleasant duty to acknowledge the help and encouragement from a

number of friends, without which this work could not have been produced. In the first place I am grateful to the directors of the libraries who have put the manuscripts at my disposal. They are: the Central Library, Baroda; the India Office Library, London; the Asiatic Society of Bengal, Calcutta; and the Bayerische Staatsbibliothek, Munich. The Stadsbibliotheek, Antwerp, kindly applied for the loan of the manuscripts from Munich, and allowed me to make use of their microfilm reading equipment.

A great portion of the work for this edition has been done in the Deccan College, Poona. Besides for the arrangements made there in order to have most of the manuscripts sent to Poona on loan, I want to avail myself of this opportunity to express my sincere feelings of gratitude towards the Director, Dr.S.M.Katre, for the great hospitality which I enjoyed in his Institute for about one year and a half.

It is a cause of great pleasure to acknowledge the valuable help of Dr.P.V.Kane. Not only has he been encouraging our work for several years, but his explanation of a couple of difficult passages has greatly contributed to a correct understanding of the text. The same feelings of gratitude go to my learned friend, Professor V.A. Ramasvami Shastri (Poona), for his interpretation of some complicated sentences. One never vainly appeals to Dr.P.K.Gode, the eminent Curator of the Bhandarkar Oriental Research Institute, Poona; my hearty thanks to him and to Dr D.C.Sircar (Ootacamund) for their explanation of some data in the colophons of the manuscripts.

As will be seen below, this work has been largely influenced by the theories of Nyāya-philosophy. It would not have been possible to interpret the text without a knowledge of this doctrine. It is, therefore, not out of place on this occasion to refer to my teachers of Indian logic. I will ever cherish the memory of the many most profitable sessions on this subject with my revered teacher, Prof Dr.B.Faddegon, who unfortunately has not been allowed to see the completion of this work. Equally much I am indebted to my Indian guru, Pandit T.S.Shrinivasa Shastri, who, through the medium of the Gādādharī, taught me the intricacies of Navyanyāya

In England, I gladly acknowledge the assistance of Dr.J.D.M.Derrett, whose continuous encouragement has also been extended to this work in many ways. A special word of thanks should be addressed to the members of the staff of the India Office Library for their extraordinary helpfulness during a three weeks' stay in London in connection with this volume. This work also gave me an opportunity of making the acquaintance of Dr.L.D.Barnett (British Museum) who kindly put his bibliographical material at my disposal.

Een bijzonder woord van dank wil ik in het Nederlands richten tot mijn leermeester, Prof.Dr.A.Scharpé. Van bij de aanvang van mijn Indologische studies heeft hij mij onvermoeid terzijde gestaan en me geleid en aangemoedigd op de lange weg die leidde tot het voorleggen van dit aggregaatsproefschrift. Mijn verplichting tegenover hem is zo groot dat zij onmogelijk in woorden kan worden uitgedrukt.

Mijn dank gaat ook naar alle hoogleraren van de Faculteit van Wijsbegeerte en Letteren te Gent voor de wetenschappelijke vorming die ik bij hen mocht genieten en voor hun welwillendheid dit werk als aggregaatsdissertatie te aanvaarden.

Schelle, February 1st, 1956.

प्रस्तावना

ये ये धर्मशास्त्रमुपजीवन्ति तैस्तैर्विवादचिन्तामणिकारत्वेन श्रीवाचस्पतिमिश्रा ज्ञाता: । न केवलं तत्पुस्तकं पुन: पुन: प्रकाशितमांग्लाभाषया चानुक्तं किंत्वधतनसभास्वप्यवतारितं प्रमाणत्वेन चादृतम् । विवादचिन्तामणिवदन्यान्यपि वाचस्पतिमिश्रकृतानि पुस्तकानि प्रकाशितानि यथा तीर्थचिन्तामणिप्रायश्चित्तचिन्तामण्यादय: । पुनस्तदतिरिक्ता बहवो ग्रन्था अप्रकाशिता हस्तलिखितपुस्तकरूपाश्च ग्रन्थालयेषु विद्यन्ते । तेषामन्यतमो ऽयं व्यवहारचिन्तामण्यभिधो ग्रन्थो ऽप्यप्रकाशित आसीत् ।

इदं मुद्रितपुस्तकं चतुर्धाकृतम् । भूमिकाख्यभागस्य प्रथमाधिकारे वाचस्पतिजीवनं निरूप्यते जीवनकालश्च व्यवस्थाप्यते । तदनन्तरं कीदृशा ग्रन्थास्तैर्लिखिता इत्यत्र परीक्षा क्रियते । भूमिकाया द्वितीयाधिकारे हस्तलिखितपुस्तकसप्तकनिरूपणं प्राप्य तथा तत्तत्प्रामाण्यस्योपमानं कृत्वा ततो वाचस्पतिमिश्रैरेव कथं लिखितमित्यनुमीयते ।

तदनुसारेण द्वितीयभागे व्यवहारचिन्तामणिमूलग्रन्थो मुद्रित: पृष्ठतलेषु च गरिष्ठपाठान्तरसमुच्चय: समायुक्त: । अत्र सव्यवहारमुखभाषोत्तरक्रियानिर्णयव्यवहारपादचतुष्टयमन्विष्यते ।

तृतीयचतुर्थभागयोर्व्यवहारचिन्तामणिरांग्लाभाषयानूक्तो विविधसूचिपत्त्राणि च समुच्चितानि ।

पुस्तकं पठित्वा व्यवहारदर्शनशास्त्रमधिकृत्य वाचस्पतिकृतव्यवहारचिन्तामणिगौरवमभिज्ञास्यन्ति विद्वांस इति प्रकाशनमूलकश्रमपरितोषो भविष्यति ।

सं १८७७ बुधवासरे पौषकृष्णपक्षपंचमदिने ।
स्खेल्लग्रामे ।

ABBREVIATIONS

ABORI	Annals of the Bhandarkar Oriental Research Institute, Poona.
acc.	according.
add.	added, addition.
an.	anonymous(ly).
ĀnSS	Ānandāśrama Sanskrit Series, Poona.
Āp	Āpastamba(dharmasūtra).
ĀpHda	- Haradatta: Ujjvalā. Ed. Bühler,G. BSS 44,50. ^{3}1932.
attr.	attracted, attraction.
B	Bṛhaspati(smṛti). Ed. Aiyangar,K.V.Rangasvami. GOS 85. 1941. Tr. Jolly,J. SBE 33. 1889.
Bau	Baudhāyana(dharmasūtra).
BauGsvā	- Govindasvāmi: Vivaraṇa. Ed. Śāstri,A.Chinnasvāmi. KSS 104. 1934.
BenSS	Benares Sanskrit Series, Benares.
Bhde	Bhavadeva.
Bhpu	Bhaviṣyapurāṇa.
BI	Bibliotheca Indica, Calcutta.
BS	Bibliotheca Sanscritica, Mysore.
BSS	Bombay Sanskrit Series, Bombay-Poona.
ChSS	Chowkhambā Sanskrit Series, Benares.
comm.	commentary.
corr.	corrected, correction.
Dāta	Raghunandana: Dāyatattva. Ed. Jīvānanda Vidyāsāgara. Calcutta ^{2}1895.
D.C.	Deccan College, Poona.
Dhko	Dharmakośa. Vol.I. Vyavahārakāṇḍa. Ed. Jośī,L.Ś. Wai 1937-41.
ditt.	dittography.
Dta	Raghunandana: Divyatattva. Ed.= Dāta.
Dvi	Vardhamāna: Daṇḍaviveka. Ed. Smṛtitīrtha,K.K. GOS 52. 1931.
ed(d).	edited, edition(s).
fh.	first hand.
G	Gautama(dharmasūtra).
GHda	- Haradatta: Mitākṣarā. Ed. Gokhale,G.Ś. ĀnSS 61. ^{2}1931.
GMka	- Maskari: Bhāṣya. Ed. Śrīnivāsācārya,L. BS 50. 1917.
GOS	Gaekwad's Oriental Series, Baroda.
H	Hārīta(dharmaśāstra), Vyavahārādhyāya. Ed.tr. Jolly,J. In: Abhandlungen der bayerischen Akademie 18.2(1888-89),p.505-24.
Hyu	Halāyudha(nibandha).
IC	Indian Culture, Calcutta.
IMSNL	Ingalls,D.H.H. Materials for the Study of Navya-Nyāya Logic. Harvard Oriental Series 40. Cambridge(U.S.)-London 1951.
I.O.	India Office Library, London.

JASB	Journal of the Asiatic Society of Bengal, Calcutta.
JBORS	Journal of the Bihar and Orissa Research Society, Patna.
JGJRI	Journal of the Ganganatha Jha Research Institute, Allahabad.
JOR	Journal of Oriental Research, Madras.
K	Kātyāyana(smṛti). Ed.tr. Kane,P.V. Bombay-Poona 1933.
K App	Kātyāyana Appendix. Ed. Aiyangar,K.V.Rangasvami. In: Festschrift Kane. Poona 1941. P.7-17.
KILA	Keith,A.B. Indian Logic and Atomism. Oxford 1921.
KSS	Kashi Sanskrit Series, Benares.
m.	margin.
M	Manu(smṛti). Tr. Bühler,G. SBE 25. 1886.
MGrā	- Govindarāja. Ed. Mandlik,V.N. Bombay 1886.
MKlū	- Kullūka: Manvarthamuktāvalī. Ed. (1) = MGrā. (2) Ācārya,N.R. Bombay [10]1946.
MMdhā	- Medhātithi: Bhāṣya. Ed. = MGrā. Tr. Jha,G. Calcutta 1920-26.
MNda	- Nandana: Nandinī. Ed.= MGrā.
MRca	- Rāmacandra. Ed. = MGrā.
MRvā	- Rāghavānanda: Manvarthacandrikā. Ed. = MGrā.
MSnā	- Sarvajñanārāyaṇa: Manvarthavivṛti. Ed. = MGrā.
Mā	Mātṛkā (introductory chapters of N).
MKVI	Macdonell,A.A. and Keith,A.B. Vedic Index of Names and Subjects. London 1912.
MNp	Āpadeva: Mīmāṃsānyāyaprakāśa. Ed.tr. Edgerton,F. New Haven 1929.
Mra	Madanasiṃha: Madanaratnapradīpa, Vyavahāravivekoddyota. Ed. Kane,P.V. Bikaner 1948.
Ms(s)	manuscript(s).
N	Nārada(smṛti). Tr. Jolly,J. SBE 33. 1889.
NAhā	- Asahāya: Bhāṣya. Ed. Jolly,J. BI 102. 1885.
NMs	Nāradīyamanusaṃhitā.
NMsBhsvā	- Bhavasvāmi: Bhāṣya. Ed. Śāstri,K.Sāmbaśiva. TSS 97. 1929.
Nsū	Gautama: Nyāyasūtra.
NsūBhā	- Vātsyāyana: Bhāṣya. Ed.tr. Jha,G. Poona 1939.
om.	omitted, omission.
opp.	opposite.
Pdha	Sāyaṇamādhavācārya: Parāśaradharmasaṃhitā. Part III. Vyavahārakāṇḍa. Ed. Śāstri,V.G. BSS 67. 1911-19.
Pdī	Pradīpa.
Pi	Pitāmaha(smṛti). Ed.tr. Scriba,K. Leipzig 1902.
Pjā	Pārijāta.
Pr	Prajāpati(smṛti).
Prāta	Raghunandana: Prāyaścittatattva. Ed. = Dāta.
Q	Quotations (from N). Collected by Jolly,J. SBE 33. 1889.
QJAHRS	Quarterly Journal of the Andhra Historical Research Society, Rajahmundry.
QJMS	Quarterly Journal of the Mythic Society, Bangalore.
quot(t).	quotation(s).
RILES	Randle,H.N. Indian Logic in the Early Schools. Oxford 1930.
Rra	Caṇḍeśvara: Rājanītiratnākara. Ed. Jayaswal,K.P. Patna [2]1936.
SBE	Sacred Books of the East, Oxford.
Sca	Devaṇṇabhaṭṭa: Smṛticandrikā. III,1.Vyavahārakāṇḍa. Ed. Śrīnivāsācārya,L. BS 45, 1914.
sh.	second hand.
SJS	Sternbach,L. Juridical Studies in Ancient Indian Law. 10.Different Ty-

	pes of Deposit. In: ABORI 26(1945-46),p.263-82.
ŚL	Śaṅkhalikhita(dharmasūtra). Ed. Kane,P.V. In: ABORI 7(1926-27), p.101-128, and 8(1927-28),p.93-132.
SMṚI	Sarkar,K.L. The Mimamsa Rules of Interpretation as applied to Hindu Law. Calcutta 1909.
Ssā	Harinātha: Smṛtisāra. Ms in I.O.
Svi	Pratāparudra: SarasvatIvilāsa, Vyavahārakāṇḍa. Ed. Shama Sastry,R. BS 71. 1927.
syn.	synonym.
Tci	Vācaspati Miśra: Tīrthacintāmaṇi. Ed. cf.p.10.
tr.	translated, translation.
Tsa	Annambhaṭṭa: Tarkasaṃgraha.
TsaTdī	- Annambhaṭṭa: Tarkadīpikā. Ed. Athalye,Y.V. BSS 55. [2]1930.
TSS	Trivandrum Sanskrit Series.
U	Uśanas(smṛti).
Va	Vasiṣṭha(dharmasūtra). Ed. Führer,A.A. BSS 23. [3]1930.
Vāc	Vācaspati Miśra.
Vca	Misaru Miśra: Vivādacandra. Ed. Mitra,P. Calcutta 1931.
Vci	Vācaspati Miśra: Vivādacintāmaṇi. Ed. cf.p.3,[E].
Vi	Viṣṇu(smṛti).
ViNpa	- Nandapaṇḍita: Vaijayantī. Ed. Jolly,J. BI 91. 1881.
Vka	Lakṣmīdhara: Kṛtyakalpataru, Vyavahārakāṇḍa. Ed. Aiyangar, K.V.Rangasvami. GOS 119. 1953.
vM	Vṛddhamanu.
Vma	Nīlakaṇṭha: Vyavahāramayūkha. Ed.+notes Kane,P.V. BSS 80. 1926 Tr. Kane,P.V. Bombay 1933.
Vmāt	Jīmūtavāhana: Vyavahāramātṛkā. Ed. Mookerji,A. Memoirs of the ASB 3,5 (1910-14).
Vni	Varadarāja: Vyavahāranirṇaya. Ed. Aiyangar,K.V.Rangasvami. Madras 1942.
Vpra	Mitra Miśra: Vīramitrodaya, Vyavahāraprakāśa. Ed. Bhāṇḍārī,V.P. ChSS 30,7. 1932.
Vsā	Dalapatirāja: Nṛsimhaprasāda, Vyavahārasāra. Ed. Tillū,V.S. Benares 1934.
Vsau	Ṭoḍaramalla: Ṭoḍarānanda, Vyavahārasaukhya. Ms in Anup Library, Bikaner.
Vta	Raghunandana: Vyavahāratattva. Ed. = Dāta.
Vy	Vyāsa(smṛti). Ed. Ghosh,B.K. In: 1.Festschrift W.Geiger. Leipzig 1931. P.108-21. 2.Zeitschrift für Indologie und Iranistik 9(1933-34),p.78-92.
Vyci	Vācaspati Miśra: Vyavahāracintāmaṇi.
Vyra	Caṇḍeśvara: Vyavahāraratnākara.
WGJT	Wilson,H.H. A Glossary of judicial and revenue terms. Ed. Ganguli,A.C. Calcutta 1940.
Y	Yājñavalkya(smṛti).
YApa	- Aparāditya: Aparārka. Ed. an. ĀnSS 46. 1903-04.
YBkrī	- Viśvarūpa: Bālakrīḍā. Ed. Śāstri,T.Gaṇapati. TSS 74,81. 1922-24.
YDka	- Śūlapāṇi: Dīpakalikā.
YMtā	- Vijñāneśvara: Mitākṣarā. Ed. Jāvajī,P. Bombay [4]1936.
YMtāBbha	- Bālambhaṭṭa: Vyavahārabālambhaṭṭī. Ed. Parvatiya,N.P. ChSS 41. 1914.
YMtāSbo	- Viśveśvarabhaṭṭa: Subodhinī.
YVmi	- Mitra Miśra: Vīramitrodaya. Ed. Khiste,N.Ś. ChSS 62.1930.
Ya	Yama(smṛti).
ZDMG	Zeitschrift der deutschen morgenländischen Gesellschaft.

TABLE OF CONTENTS

I N T R O D U C T I O N

I

THE AUTHOR AND HIS WORKS

Bibliography.

[A] 1915. Chakravarti, Rai Monmohan. Contributions to the History of Smṛti in Bengal and Mithilā. Part II: Mithilā. In: JASB 11(1915),p.394-400.

[B] 1915. Chakravarti, Rai Monmohan. History of Mithilā during the Pre-Moghul Period. In: JASB 11(1915),p.407-33.

[C] 1922. Singh, Shyam Narayan. History of Tirhut. From the Earliest Times to the End of the Nineteenth Century. Calcutta 1922.

[D] 1930. Kane, Pandurang Vaman. History of Dharmaśāstra. Vol.I,p.399-405. Poona 1930.

[E] 1937. Vivādachintāmaṇi, A Treatise on Smṛti by Mahāmahopādhyāya Vāchaspati Miśra, edited and published by Pandit Lakshmīkānta Jhā. Patna 1937. Introduction, p.1-6.

[F] 1942. The Vivādachintāmaṇi of Vāchaspatimiśra, translated by Sir Ganganatha Jha. Baroda 1942. GOS XCIX.
Introductory: Vivādacintāmaṇi and its Author, by Umesha Mishra, p.vii-xxv.

[G] 1943-44. Chakravarti, Chintaharan. Candraśekhara Smṛtivācaspati. In: JGJRI 1 (1943-44),p.161-64.

[H] 1946-47. Bhattacharya, Dinesh Chandra. Nyāya Works of Vācaspati Miśra II of Mithilā. In: JGJRI 4(1946-47),p.295-312.

Catalogues of Mss:

[I] 1898. Haraprasād Śastri. Notices of Sanskrit Mss (2nd Series). Calcutta I-II 1898, III 1907.

[J] 1900. Mitra,R. Notices of Sanskrit Mss. Calcutta from 1900 onward.

[K] 1905. Haraprasad Śastri. A Catalogue of Palm-leaf and Selected Paper Mss belonging to the Durbar Library, Nepal. Calcutta 1905.

[L] 1911. Catalogue of the Sanskrit Mss in the Sanskrit College Library, Benares. Allahabad 1911.

[M] 1925. Haraprasad Śastri. A Descriptive Catalogue of Sanskrit Mss in the Gov. Collection under the Care of the A.S.B. Vol.III: Smṛti Mss. Calcutta 1925.

[N] 1927. Jayaswal, K.P. and Prasad, A. A Descriptive Catalogue of Mss in Mithilā. Vol.I: Smṛti Mss. Patna 1927.

Note. The above books and articles will be referred to by means of the letters in square brackets mentioned against them in the list.

Mr. Kane says: "Vācaspatimiśra is the foremost nibandha writer of Mithilā" [D,p.399]. Some people have objected to the wording of this statement [F,p.xxiii], for Mithilā has produced a great number of eminent authors on dhar-

maśāstra who might aspire at the position assigned to Vāc by Mr.Kane; but even then they must admit that "Vāc was a versatile scholar"[F,p.xxii]. It should not be forgotten that these evaluations are based upon a fragmentary knowledge of Vāc's works only, but, as will be seen below, the mere list of works attributed to Vāc is impressive enough to justify the opinions quoted above.

It is very unfortunate, therefore, that so little is known about the author of these works. As far as our biographical knowledge of Vāc goes, he is in no better case than so many unknown Indian authors whose works take places of honour in the histories of Sanskrit literature. In the following brief notes I shall not try to bring to light any new data; it will only be attempted to sum up the facts reported by earlier biographers. The task of supplementing and correcting this sparse material must be left to such specialist workers as may be able to penetrate into "the genealogical works of Mithilā, which uptil now seem to be sealed books even to research scholars of Mithilā"[H,p.296].

No doubt can at least be raised about the fact that Vāc's literary activity coincided with the reign of two Maithila kings whose names are knowm from other sources: BHAIRAVENDRA (or HARINĀRĀYAṆA) and his son RĀMABHADRA (or RŪPANĀRĀYAṆA) of the Kāmeśvara dynasty. (A detailed account of this dynasty has been given in [B]; for a pedigree, cf.[B,p.433] and [D,p.404,n.985]).

The following works of Vāc are reported to have been dedicated to BHAIRAVENDRA: the Kṛtyamahārṇava, the Mahādānanirṇaya, and the Vyavahāracintāmaṇi, to which [E] adds: the Śūdrācāracintāmaṇi, the Vivādacintāmaṇi, and the Kṛtyapradīpa. It should be noticed, that the Mahādānanirṇa-

ya seems to have been dedicated to BHAIRAVENDRA and RŪPANĀRĀYAṆA at the beginning and at the end respectively . It has been suggested, that either the work was started during the reign of the father and completed during that of his son, or the title RŪPANĀRĀYAṆA may also have been used by BHAIRAVENDRA [D,p.402].
The Dvaitanirṇaya is known to have been composed at the order of JAYĀ, queen of BHAIRAVENDRA.
The Pitṛbhaktitaraṅgiṇī, the author's last work, was written at the order of RĀMABHADRA.
Under both kings Vāc held the office of a pariṣat, i.e. "the adviser of the king in finally deciding difficult points of Dharmaśāstra"[D,p.403].
It has been maintained [H,p.300-303], that Vāc also wrote a work at the request of PADMĀVATĪ, queen of Mahārājādhirājā PRATĀPARUDRA of Pañcālabhūmi. The work in question is the Nyāyaratnaprakāśa. This necessitates the conjecture, that, due to some trouble in Mithilā at the time when NARASIṂHA of the younger branch of the royal family took over from PADMASIṂHA of the senior branch, Vāc fled from the country to come back after peace had been restored under BHAIRAVENDRA. The theory is ingenious, but one would welcome more evidence to prove the identity of both authors.

Traditionally Vāc was believed to be the father of LAKṢMĪDĀSA, who in A.D.1501 wrote the Gaṇitatattvacintāmaṇi, a comm. on the Gaṇitādhyāya and Golādhyāya of BHĀSKARA's Siddhāntaśiromaṇi. In that case Vāc would be the son of KEŚAVA of the Upamanyugotra [A,p.399].
This view has, however, been abandoned. From the Maithila Pañjīs it has been learned, that Vāc belongs to the

Vatsyagotra and the Palivāḍa-Samaula group of Maithila brāhmaṇas. That means: (1) the original ancestor of his family lived in Palivāḍa village in Darbhanga district; (2) at the time when HARISIṂHADEVA, the last king of the Karṇāṭaka dynasty, introduced the Pañjī system among Maithila brāhmaṇas (ca.A.D.1324), the family lived in Samaula village, also in Darbhanga district [E,p.3].
According to these sources Vāc was the third son of Paṇḍita GIRIPATI MIŚRA, a well-known naiyāyika of his time. Some sources also mention NARAHARI MIŚRA, the author of a Dvaitanirṇaya, as Vāc's third son from his first wife (he married twice). Vāc lived in Sugauṇa village near Rājnagar [C,p.112-113 with an extensive pedigree of Vāc's family; E,p.3; F,p.xi].
In any case, Vāc's ancestors seem to have specialized both in Nyāya and Mīmāṃsā. Vāc repeatedly stresses the fact that he was taught these doctrines in his natural environment [N,p.67 from the Kṛtyapradīpa; N,p.459 from the Śrāddhakalpa].
Vāc has also been closely related to (NAVYA)VARDHAMĀNA. In his Daṇḍaviveka (2.6) VARDHAMĀNA calls Vāc his guru, and the same work often quotes from the Vivādacintāmaṇi. On the other hand, Vāc cannot have been much older than VARDHAMĀNA, since both his Śrāddhacintāmaṇi and Kṛtyamahārṇava refer to VARDHAMĀNA's Smṛtiparibhāṣā [A,p.397, 398,402].

To fix Vāc's date we can rely upon the following facts: (1) DHĪRASIṂHA, BHAIRAVENDRA's predecessor, was ruling in La.sam.321 = A.D.1439-40 [B,p.425-26]. On the other hand LAKṢMĪNĀTHA, RĀMABHADRA's successor, was on the throne in La.sam.392 = A.D.1510-11 [B,p.430]. Consequently, the

reigns of BHAIRAVENDRA and RĀMABHADRA fell between A.D. 1439-40 and A.D.1510-11.

(2) The oldest dated Ms of Vāc is one of the Śuddhinirṇaya: saṃvat (here= śake) 1416 = A.D.1493-94 [J x,p.58,no. 3318].

No greater precision is possible upon the data so far made available. Considering the fact that the great number of works produced by the author must have required a long literary activity, it can safely be concluded that Vāc has worked between A.D.1450 and A.D.1500 approximately.

It is interesting to notice that practically the same conclusion has been arrived at from completely different considerations [H,p.308-312]. On the basis of a comparison of certain viewpoints held or rejected in various Navyanyāya-works, D.C. Bhattacharya concludes that Vāc was born ca.A.D.1400. His literary career began ca.A.D.1425 and stretched as far as A.D.1475. He further conjectures that Vāc first concentrated on Nyāya, but later left this field in favour of Smṛti when he was outshone by YAJÑAPATI and JAYADEVA in Navyanyāya.

It has become a regular, though necessary warning, not to confuse Vāc, the Maithila jurist, with at least two other authors of the same name:

(1) VĀCASPATI MIŚRA, the well-known philosophical author of the Bhāmatī, the Nyāyavārttikatātparyaṭīkā, etc., who flourished about the middle of the 9th century A.D.

(2) CANDRAŚEKHARA SMṚTIVĀCASPATI, the author of the Dvaitanirṇaya, the Smṛtisārasaṃgraha, and the Dharmadīpikā [G,p.161-63], who flourished in the middle of the 17th century A.D.

The Smṛtisārasaṃgraha has also been ascribed to Vāc [F,p.xvi]. This is, however, impossible, since the text not only quotes VĀCASPATI MIŚRA himself but also RAGHUNANDANA [M,p.169-70,no.2074].

At the end of the Pitṛbhaktitaraṅgiṇī Vāc himself states, that the work had been composed in his old age, after he had completed ten treatises on Śāstra and thirty on Smṛti in his earlier days [F,p.xi]. Though there is no reason

to question the reliability of this statement, it cannot be denied that it may have had an unfortunate influence upon the research done on this subject. Some scholars, anxious to reach the number of works mentioned in the Pitṛbhaktitaraṅginī, probably have listed as separate works Mss which completely or partly cover an identical subject-matter. As a result, the total sum of titles referred to by the different scholars already exceeds the numbers ten and thirty. It has proved impossible to go through the Mss of all works mentioned below. The list only serves to present a status quaestionis for the purpose of reference for further research. The short notes on the contents of most of the works, which can be found in [A] and [F], are not repeated here.

WORKS ON DHARMA.

Ācāracintāmaṇi.
Mss: [J v,p.169,no.1857], dated La.sam.433 = A.D.1551-52; [N,p.17-19,no.20 A-E].

Āhnikacintāmaṇi.
No Ms has been found. It is quoted in the Śuddhicintāmaṇi.

Candanadhenu(dāna)pramāṇa.
Ms: [J ix,p.236,no.3154]. It is attributed to CANDRAŚEKHARA SMṚTIVĀCASPATI by D.C.Bhattacharya [H,p.295,n.2], but not by C.Chakravarti [C].

Chattrayogodbhūtadoṣaśāntividhi.
Only reference: [E,p.xvii].

Dattakavidhi = Dattakaputreṣṭiyāgavidhi.
Ms: [I iii,p.90-91,no.139]. Judging from the colophon it is not impossible that the Dattakaputreṣṭiyāgavidhi is only a chapter of the Dattakavidhi.

Dvaitacintāmaṇi.
No Ms has been found. It is quoted in the Kṛtyacintāmaṇi.

Dvaitanirṇaya.
Mss: [J v,p.296,no.1973]; [N,p.238-42,no.226.227 A-J]. - Ed: Darbhanga śake 1830 (It has proved impossible to trace a copy of this ed.).
The work has been commented upon by:
(a) GOKULANĀTHA: Dvaitanirṇayapradīpa or °kādambarī.
Mss: [N,p.245-48,no.229 A-F. 230 A]; I.O.,no.1573.
(b) MADHUSŪDANA ṬHĀKURA: Dvaitanirṇayaprakāśa or °jīrṇoddhāra.
Ms: [N,p.243-45,no.228 A-D].

Gayāpattalaka.
Ms: [N,p.93-94,nos.93-95].

Gayāpaddhati. Cf. Tīrthacintāmaṇi.

Gayāprakāśa. Cf. Tīrthacintāmaṇi.

Gayāśrāddhapaddhati.

Mss D.C.,no.245 of 1887-91. - Ed: an., Candraprabhā Press, Benares (1906).

Gayāvidhi. Cf. Tīrthacintāmaṇi.

Kalpalatā. Cf. Tīrthacintāmaṇi.

Kṛtyacintāmaṇi.

Ed: Benares śake 1814 (It has proved impossible to trace a copy of this ed.).- Partly: Vācaspatimiśrakṛtadurgotsavaprakaraṇam, ed. Satīścandra Siddhāntabhūṣaṇa, Calcutta 1924. (Sanskrit Sahitya Pariṣad Series no.7.)

Kṛtyamahārṇava.

Ms: [M,p.89-91,no.1958].

No trace has been found so far of the other °mahārṇavas mentioned in the introductory verse: Ācāra°, Vivāda°, Vyavahāra°, Dāna°, Śuddhi°, and Pitṛyajña°.

Kṛtyapradīpa.

Ms: [N,p.67-69,no.75 A-E].

The beginning corresponds to that of the Śrāddhakalpa.

Laghupuruṣārthacintāmaṇi.

Ms: [M,p.132,no.827]. It is doubtful whether this is a work of Vāc. "If correctly attributed, it is not clear whether it belongs to smṛti or darśana" [C,p.112].

Mahādānanirṇaya.

Ms: [K,p.122-23], dated La.sam.392 = A.D.1510-11.

Nīticintāmaṇi.

No Ms has been found. It is quoted in the Vivādacintāmaṇi.

Pitṛbhaktitaraṅginī.

Ms: [N,p.283-85,no.260 B. 261 A-C].

Prāyaścittacintāmaṇi.

Ed. as a supplement to the Pandit (It has proved impossible to trace a copy of this ed.).

Sambandhacintāmaṇi.

Ed: S.Tarkasarasvati. Silchar śake 1850 (It has proved impossible to trace a copy of this ed.).

Śrāddhacintāmaṇi.

Ed: Benares śake 1814 (It has proved impossible to trace a copy of this ed.).

The work has been commented upon by VĀMADEVA: Śrāddhacintāmaṇibhāvadīpikā.

Ms: [N,p.463-64,no.394 A].

Śrāddhakalpa.

Ms: [N,p.458-59,no.391 A].

According to some [D,p.399] this is another title for the Pitṛbhaktitaraṅginī, whereas others reject this identity [F,p.xix]. It should be noticed that the identity of both titles rests upon Ms I.O.,no.1730, in which the same text is referred to as Pitṛbhaktitaraṅginī and Śrāddhakalpa at the beginning and at the end respectively, whereas the Mss mentioned in [N] under both titles are completely different. It might be worth while to investigate whether the I.O.Ms does not contain portions of both texts, as seems to be suggested by the break after fol.25.

Śrāddhavidhi.

Mss: [J i,p.244,no.430]; [N,p.459-60,no.392]. As suggested in both Catalogues, this work probably corresponds to the Śrāddhacintāmaṇi, or it might be part of the latter.

Śuddhicintāmaṇi.

Ed: Benares śake 1814 (It has proved impossible to trace a copy of this ed.).

Śuddhinirṇaya.

Mss: [J x,p.58,no.3308], the oldest dated Ms, see above p.7; [N,p.429-31,no.

375 A-D].

Śūdrācāracintāmaṇi.

Ms: [J vi,p.22,no.2001], dated La.sam.425 = A.D.1543-44. This may be a supplement to the Ācāracintāmaṇi [A,p.397].

Tīrthacintāmaṇi.

Ed: Kamalakrishna Smṛtitīrtha. Calcutta 1912. BI work 195.

Further investigation of a number of Mss with different titles will be required in order to decide upon their relation to the Tīrthacintāmaṇi. They are:

(1) Gayāpaddhati. Ms: [N,p.94-97,nos.96-99]. The colophon of no.97 explicitly states: Tīrthacintāmaṇau caturtho Gayātīrthaprakāśaḥ, i.e. Tīrthacintāmaṇi p. 268-338. No.99 is said to be Kalpalatoddhāre Gayāvidhiḥ, and breaks off with a verse from the Vāyupurāṇa = Tīrthacintāmaṇi p.332.2-3. - Ed. an., Benares 1886-87.

(2) Gayāprakāśa. Ms: [N,p.99-100,nos.103.104 A]. The colophons of both read: Tīrthacintāmaṇau (no.104: caturtho) Gayāprakāśaḥ = Tīrthacintāmaṇi p.268-338.

(3) Gayāvidhi. Ms: [N,p.100-03,nos.105-109]. Nos.105,108,109 read: Kalpalatoddhāre Gayāvidhiḥ.

(4) Tīrthakalpalatā. Ms: [N,p.181,no.166].

(5) Tīrthalatā. Ms: [N,p.185,no.169].

(6) Tīrthayātrāvidhi. Ms: [N,p.184-85,no.168].

Tithinirṇaya.

Ms: [J v,p.149,no.1839]. Vāc's authorship has been disputed [F,p.xvii], because (1) the author's name is not referred to in the opening verse; (2) nearly the same introductory verse appears in ŚUBHAṂKARA ṬHĀKURA's Tithinirṇaya [N,p.161,no.153].

Vivādacintāmaṇi.

Ed: (1) Pandit Rāma Chandra Vidyāvāgīśa. Calcutta 1837. - (2) Kham Rājā Śrī Kṛishṇa Dāsa. Bombay 1898. - (3) [E].

Transl: (1) Prossonno Coomar Tagore. Calcutta 1863. - (2) [F].

Vivādanirṇaya.

Ms: [K,p.90].

Vyavahāracintāmaṇi.

LOGICAL WORKS.

Anumānanirṇaya = Anumānakhaṇḍaṭīkā.

Ms: [K i,p.94]. It has been held to be a comm. on GAṄGEŚA's Anumānakhaṇḍa [C,p.112], but this view has since been rejected [H,p.303-04]: it analyses the Nyāya and Mīmāṃsā views on inference.

Cintāmaṇiprakāśa.

Ms of the Pratyakṣapariccheda in Sarasvati Bhavan, Nyāya-Vaiśeṣika Ms no.282. There is reason to believe that this work also covered the portion on anumāna [H,p.306-07].

Khaṇḍanoddhāra.

Ed: Vindhyeśvarī Prasāda Dvivedī and Vāmācaraṇa Bhaṭṭācārya. Benares 1909. Reprint from the Pandit. It is a refutation of ŚRĪHARṢA's Khaṇḍanakhaṇḍakhādya. The editors consider this Vāc to be different from the author of the dharmanibandhas (Bhūmikā,p.5).

Nyāyaratnaprakāśa.

Ms: D.C. no.775 of 1884-87. It is a comm. on the Nyāyaratna of MAṆIKAṆṬHA MIŚRA. This work has been attributed to Vāc upon the basis of a bold conjecture of his having left Mithilā for some time. Cf. above p.5.

Nyāyasūtroddhāra.
Ms: [I ii,p.98-99,no.118].
Nyāya-(or Naya-)tattvāloka or Tattvāloka.
Ms: I.O.,no.1868 (Eggeling's description, I.O.Catalogue i,p.610-11, has been corrected: [H,p.296,n.7]). It is one of Vāc's earliest works [H,p.296-97], an attempt to explain the Nyāyasūtras in the light of GAÑGEŚA's theories [H,p. 299].
Pratyakṣanirṇaya.
No Ms has been found. It is quoted in the Khaṇḍanoddhāra.
Śabdnirṇaya.
No Ms has been found. It is quoted in the Dvaitanirṇaya.

Apart from these works on Dharma and Nyāya, Vāc is also mentioned as the author of a comm. on the Kāvyaprakāśa. A serious objection has, however, been raised against the identity of the authors (held, e.g., [F,p.xii]): the Vāc who wrote on poetics has been quoted in CAṆḌĪDĀSA's comm. on the Kāvyaprakāśa, a work which seems to have been written ca.A.D.1300.
Cf. The Kāvya Prakāśa of Mammaṭācārya (Part I) with the comm. Dīpikā of Caṇḍīdāsa, ed. Śivaprasāda Bhaṭṭācārya. Benares 1933. Sarasvati Bhavan Texts, no.46. P.17 Vācaspati Miśra is ranked among prācīnāṃ ... Vyākhyātṝṇām. In a footnote the editor points out that it is difficult to ascertain who this Vāc is; at any rate he must be different from Vāc the philosopher and Vāc the jurist. (For the date of CAṆḌĪDĀSA, cf. Kane,P.V. History of Sanskrit Poetics.[3]1951 Bombay, p.389.)

- - - - - - - - - - -

II

THE EDITION OF THE VYAVAHĀRACINTĀMAṆI.

DESCRIPTION OF THE MSS.

The present edition of the Vyci has been based upon the following seven Mss.

1

Central Library, Baroda. Sanskrit Section. Acc.no.10194. Cf.: Raghavan Nambiyar. An Alphabetical List of Mss in the Oriental Institute, Baroda. Vol.I. 1942. GOS 97. No. 1185.

Palm leaf. Bengālī script. 105 folia, 15 inches by 2 inches. 4 lines on a page, 60-65 akṣaras on a line. Complete. Clearly written, but the borders of several pages are worn to such an extent that parts of the text have been deleted. Other pages have become practically illegible due to humidity, some of which have been written over again sh. Many marginal additions sh., in very small ty-

pe, nearly illegible.
The Ms is dated. Its colophon runs as follows:

लसं ५०३ आश्विनकृष्णाचतुर्दश्यां चन्द्रे विहारनगरे श्रीन्यायालंकार ...ाज्ञया लिखितं श्रीशिवनाथेनेति ॥ शुभमस्तु ॥ श्रीरस्तु ॥

कमलनयन वासुदेव विष्णो धरिणधराच्युत शंखचक्रपाणे । [Viṣṇupurāṇa 3.7.33]
मव शरणमितीरयन्ति ये वै त्यज भट दूरतरेण तानपापान् ॥

ओं नमो हरिहराभ्यां ॥ ओं नमो ऽर्द्धनारीश्वराय ॥ ओं नमः ससीतरामलक्ष्मणाभ्यां ॥ ओं ॥

Dr. D.C.Sircar (Government Epigraphist, Ootacamund) kindly informs me, that the date of the Ms corresponds to Monday, A.D.October 2, 1609 (taking A.D.1105-06 as the beginning of the Lakṣmaṇa Sena Era, as against the more commonly adopted A.D.1118-19; cf. Sewel, R. and Dikshit, S.B. The Indian Calendar. London 1896, p.46). According to Dr. Sircar, <u>Vihāranagara</u> possibly corresponds to the modern town of Biharsharif in Patna district.

Siglum: B1.

2

Central Library, Baroda. Sanskrit Section. Acc.no.10227.
Cf.: GOS 97, no.1186.

Paper. Bengālī script. 47 folia, 19¼ inches by 4½ inches. 6-8 lines on a page, 55-85 akṣaras on a line. Complete. Clearly, but cursorily and irregularly written, palm leaf form. Few marginal notes fh.

Colophon: श्रीगुरवे नमः । श्रीश्रीदुर्गा जयति ।

Siglum: B2.

3

Central Library, Baroda. Sanskrit Section. Acc.no.10248.
Cf.: GOS 97, no.1187.

Paper. Bengālī script. 9 folia, 12½ inches by 5 inches. 12-14 lines on a page, 50-54 akṣaras on a line. Incomplete: it ends 150[1] अत्र केचित् ॥ Very neatly written. A few explanatory words have been added in parentheses in the margin fh. No colophon.

Siglum: B3.

4

Bayerische Staatsbibliothek, München. Cf.: Catalogus codicum manuscriptorum bibliothecae regiae Monacensis I.6, by J.Jolly. 1912, no.316.

Paper. Devanāgarī script. 84 folia, 6 1/2 inches by 8 1/4 inches. 17-19 lines on a page, 17-18 akṣaras on a line. Complete. Clearly written. No marginal notes. Book form.

This Ms has one long interpolation (fol.39b19-40a16): यस्तु तांस्तेनये (352) [च प्रामाण्यशङ्कायां (445³)... अथ दौर्बल्यं तत्र व्यासः - (449²)] त्वाचं स सर्वकृन्नरः ।

Colophon: श्रीगुरुर्जयति । ओं नमो भगवते वासुदेवाय ।

Siglum: M1.

Note 1. M1 has been copied in 1883 in Calcutta from a Ms in Bengālī script, deposited in the Sanskrit College. Cf.: Hṛishikeśa Śástrí and Śiva Chandra Gui. A Descriptive Catalogue of Sanskrit Mss in the Library of the Calcutta Sanskrit College. Vol.2: Smṛiti and Níti Mss. 1898, p.130-31, no.137.

Colophon: श्रीगुरुर्जयति । ओं नमो भगवते वासुदेवाय ।

It has proved impossible to make use of this Ms for the ed., for according to the existing Library Rules the Ms was not allowed to leave the Institute. It had to be replaced by M1.
Siglum: [C'].

Note 2. Characteristic for M1 are a very great number of scribal errors all of which are due to the fact of its having been copied from an original in Bengālī script, most probably by a scribe who was not well acquainted with the latter. To this category of errors belong: (1) a number of blanks in places where the original was illegible for the scribe; (2) the consistent misreading of some akṣaras: र्ग, ह्व, etc., or the confusion of तु-थ, व-र, म-स, श-ग, स्थ-स्त, etc.

5

India Office Library, no.249b(1400). Cf. the description by Colebrooke, in: Catalogue of Sanskrit Mss in the Library of the India Office. Part I. 1887, p.417-18.

Paper. Bengālī script. 68 folia, 13 inches by 5 inches. 8

lines on a page. Incomplete: it ends 736[4] शिष्टैस्तद्दानादिति संक्षेपः । Fairly written, towards the end of the 19th century. Some folia have been written sh. (e.g.,14b-16a). A few notes and references have been added by Colebrooke, in the margin. An extra leaf at the beginning contains a list of contents, written by Colebrooke, in Devanāgarī script.

Colophon: शुभमस्तु ।

Siglum: L.

6

Asiatic Society of Bengal, Calcutta. No. I.B.55. Cf.: Catalogue of Printed Books and Mss in the Sanskrit Oriental Library of the A.S.B. 1904, p.188.

Paper. Bengālī script. 54 pages. 25-30 lines on a page, 30-34 akṣaras on a line. Incomplete: it ends 736[4] शिष्टैस्तद्दानादिति संक्षेपः । Clearly and regularly written. No marginal notes. Book form. A microfilm has been used.

Colophon: श्रीदुर्गा श्रीरामः जयगङ्गा। व्यवहारचिन्तामणिश्लोकानि(!) २००० ।

Siglum: C.

7

Bayerische Staatsbibliothek, München. Cf.: Catalogus codicum manuscriptorum bibliothecae regiae Monacensis. I.6, by J.Jolly. 1912, no.317.

Paper. Devanāgarī script. 66 folia, 13 inches by 4 inches. 8 lines on a page, 45 akṣaras on a line. Incomplete: it ends 736[4] शिष्टैस्तद्दानादिति संक्षेपः । Clearly written. Very few marginal notes.

Colophon: श्रीदुर्गा । रघुलपुरनिवासिना श्रीपूर्णचन्द्रसेन गुप्तेन लिपिकृतः ॥

It is clear from the very outset, that this Ms is another example of a Ms copied from Bengālī script into Devanāgarī. This accounts for: (1) several blanks in places where the scribe was unable to read the Bengālī original; (2) the erroneous rendering of some more complicate Bengālī saṃyuktākṣaras, such as र्गी, etc.; (3) the interchange of व-र , म-स , etc.; (4) some nonsensical combina-

tions of akṣaras. This aspect of the Ms will be discussed below.

Siglum: M2.

Apart from the Mss described above, the following copies could be traced from the existing catalogues of Mss; it has proved impossible to secure them to be used for this ed.

- Stein, M.A. Catalogue of Sanskrit Mss in the Raghunātha Temple Library of His Highness the Mahārāja of Jammu and Kashmir. 1894. P.104, no.2575.

- Pt. Devīprasāda. Catalogue of Sanskrit Mss in Oudh. X.10.

- Catalogue of Sanskrit Mss in Private Libraries of the North-West Provinces. Part I. Benares 1874. No.72.

- Mitra, R. Notices of Sanskrit Mss. Vol.III. Calcutta 1907. P.34, no.1061.

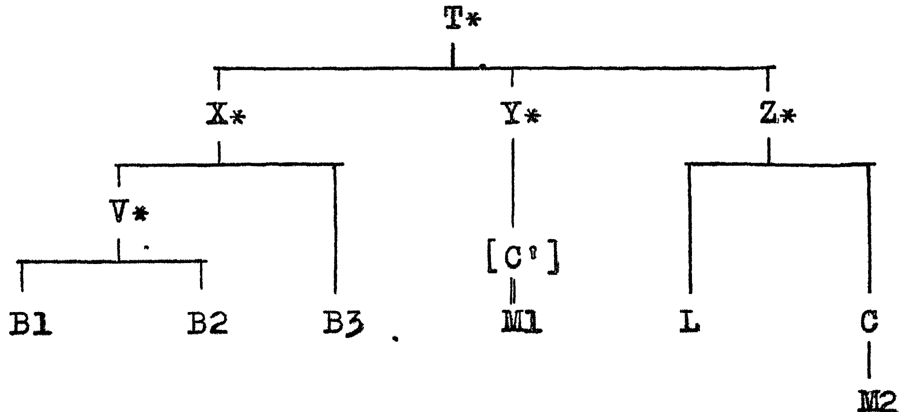
- Jayaswal, K.P. and Prasad, A. Descriptive Catalogue of Mss in Mithilā. Vol.I Patna 1928. P.392-94, no.352 A-F.

Although a critical ed. of Vyci would also demand the examination of the latter group of Mss, in view of the importance of the text it has been decided that the ed. should no longer be postponed for this reason, the more because a perfectly plausible archetype can be reconstructed upon the basis of the former seven Mss.

- - - - -

GENEALOGICAL RELATION OF THE MSS.

The genealogy of the Mss can be summarized in a <u>stemma codicum</u> as follows:



<u>Note about the sigla</u>. The Mss represented by the sigla belong to three different groups: (1) B1 B2 B3 M1 L C M2, which have been used for this ed. and which have been described above. (2) [C°], which has not been used but from which M1 is known to be a direct copy. (3) T* V* X* Y* Z*, the postulated archetype and sub-archetypes which have, therefore, been indicated by the last letters of the alphabet followed by an asterisk.

The above pedigree has been made up after a close comparison of the Mss, the results of which will be set out hereafter. The lists of examples are not intended to be exhaustive; an attempt has only been made to produce representative selections.

<u>a</u> <u>Recension X*</u>.

B1 B2 B3 often have identical readings different from those found in all other Mss. These three Mss represent the same recension which is postulated to be derived from a hypothetical common ancestor, the sub-archetype X*. B3 being incomplete, the correspondence of B1 B2 B3 can be established by means of examples taken from the first quarter of the text only.

Characteristics of X*.

(1) Scribal errors which may be immediately rejected:

10[3] [परस्पर]विरोधे metri causa. - 49[1] [अ]सम्यग्विचारितं . - 72[1] वस्तुत: .

<u>Note</u>. Square brackets are used to indicate om. in the Mss.

(2) Other readings are a priori equally possible as those found in the other Mss.

Cf. <u>e</u>.

<u>aa</u> <u>Sub-recension V*</u>.

Again, B1 B2 in places correspond among them whereas B3 has a different reading; they must be derived from a common ancestor V*, which represents a sub-recension of X*.

Characteristics of V*.

(1) Scribal errors:

12 विवादमानयो: . - 666 तिलकं for तिलकरं . - 679[3-9] शपथा: [शूद्रेण कर्तव्या: ... शपथा:] कार्या: शूद्र . - 736[1] निर्णया [न]न्तर B1 m sh.

(2) Readings which are a priori unobjectionable.

Cf. <u>ea</u>.

<u>aaa</u> <u>Version B1</u>.
In several cases the readings of B1 are different from those found in all other Mss.

Characteristics of B1.

(1) Real errors:

89 प्रतिबन्धकः against 92^{11}. - 141^{19} दृष्टेनाग्रहणं .- 187^{3} तत्र दृष्टेन . - 240 क्रियामाणो . - 251^{1} बृहस्पति-(वच)ना. - 285 वैरिणस्तथा hypermetric. - 354 सप्त-(तम)त्व. - 436 सर्वसाक्षिणः . - 447 तदुद्धरेत् hypermetric. - 506^{1} न तत् स्थिरं (न). - 535^{3} विषया-न्तरे (ण). - 565 त्रातुमर्हति for त्रातुमर्हसि . - 572 जलं क्षिपेत् for जलं विशेत् . - 586c-587b and 587cd inverted. - 715 नावहीयते (तेन व्यवहाराख्यो).- 730 विभावितैकदेशेन (देशेन)देयं . - 766^{4} स्वातन्त्र्य for स्वतन्त्र . - 784^{3} निर्णय(:)पादः.

<u>Note</u>. Parentheses are used to indicate add. in the Mss.

To this category of scribal errors also belong the following om.:

252^{1} [साक्षित्व]करण along with साक्षित्व . - 263^{1} ऽप्यग्र[ह]णमिति . - 263^{2} स्तच्चोभया[न] नुमतवि-षयं . - 269^{1} सत्यत्वे [न]. - 282^{3} त्व[साक्षित्वे]. - 501^{37} त्याग [T] सम्भवः . - 545^{2} [न] पुनरिमान्येव . - 559 [लौहं]. - 570d-571b विनिर्दिशेत् [...विनिर्दि-शेत्]. - 643ab [whole verse].- 663 [शुचयः सदा]. - 688^{4-5} हलायुधस्तु [ब्राह्मणेन तु]. - 713d-715b धर्म-विनिर्णयः [... निर्णयः].

(2) Readings which are a priori unobjectionable.
Cf. <u>eaa</u>.

(3) Cases in which the reading of B1 is the only possible one.
Cf. <u>mbc</u>.

<u>aab</u> <u>Version B2</u>.
Other readings are peculiar to B2 only as distinguished from all other Mss.

Characteristics of B2.
(1) Scribal errors:

1 मणिमातनुते hypermetric. - 33 जीविन: . - After 71d नासेध्या न विदारणीया इति, cf. 71[4] where also इति added. - 94[1] न्यूनमधिकं वा to explain substantive विप्रकृतिं.- 135 पुनन्यायिविरोधश्च .- 203[6] स्थानत्यागिना . - 271[3] तस्य तस्य for तस्य च. - 281[2] धारयतीति अयं तु . - 316[1] कथनं for कथं प्रश्न: . - 318 ग्राह्यं for कार्यं . - 525[1] देशना for चोदना प्रतिकालं. - 744 निश्चित्य(मर्हति) from 743.

Further, a number of erroneous om.:

1 [प्रयत्नतो]. - 74[1] [नियुक्तो]. - 92[4] [संख्य].- 94[2] [यथा] to introduce example. - 141[4] [इति शब्दत:] as against 141[5,6,7] इत्यर्थत: . - 152[12] एकदेशे [एकस्मिन्नेव देशे] essential explanation of एकदेशे. - 182 [कारणं]. - 196 यथो[पन्यस्त] साध्यार्थं. - 430[4] [यदा]. - 437[3] [याज्ञवल्क्यवचनस्य च]. - 437[6] प्रमाण[ान्तर] स्य. - 438[1] प्रमाण[म]ादृतं.- 447[1] तत्सा[धुत्वं सा]ध्य. - 469[1] प्रमाण [परिपालन]. - 503[1] [भोगो] भोगमात्र . - 504[2-4] [न निश्चीयते ... मुक्तिस्त]. - 521[8] प्रमाणहीनवादे [दृष्टप्रमाणहीनवादे]. - 537[1] लिङ्ग [निश्चित]. - 700b-702b त्रिसप्ताहादथापि वा [... द्विसप्ताहादथापि वा]. - 707[2] प्रचण्डता[ता]रतम्येन . - 745[1-2] [वादी ...] विवादपद. - 784[1] विक्र[य]यो:.

(2) Readings which are a priori unobjectionable.
Cf. eab.
(3) Cases in which the reading of B2 is the only possible one.
Cf. mbb.

ab Version B3.
After a first sub-recension of X* has, thus, been shown to have existed in V* as represented by its versions B1 and B2, another sub-recension can be traced

through the incomplete Ms B3.

Characteristics of B3.

(1) Scribal errors:

83^2 नारदः for कात्यायनः . - 94^3 गोश्च. - 134^2 [असंदिग्धं]. - 141^{17} [तत्र].

(2) Readings which are a priori unobjectionable.
Cf. <u>eb</u>.

<u>b</u> Recension Y*.

Numerous examples can be given to prove that Ml stands for a recension Y* which is different from those represented by the other Mss.

Characteristics of Y*.

(1) Mislections which cannot be taken into consideration for the constitution of the text.

<u>Note</u>. The many clerical errors which are peculiar to Ml as a result of its having been copied into Devanāgarī from an original in Bengālī script (cf., p.13) are excluded from this list. They characterize Ml as a Ms but not as a version of recension Y*.

2 पदानि निर्णयः ditt. - 3 यदा न स attr. by 3c तदा न . - 22^1 विचारेण attr. by एतेन . - 31 मध्यमानां hypermetric. - 32^3 श्रेणिपदात् attr. by आदिपदात् . - 94^4.95 चोत्तरविरोधात् and उत्तरविरुद्धस्य attr. by 94^4 पूर्वमविरुद्धं and विरुद्धं . - 134^5 तदपि for तथापि. - 167^3 उत्तरपादः for क्रियापादः . - 215 विनष्टे for निविष्टे. - 257 कुशीलाः for कुलीनाः . - 297^{13} कर्मयोगी for कर्मत्यागी .- 334 पवर्जितैः for पवर्जनैः . - 426^5 भवन्तीत्याधव्यवहार for भवन्तीत्यध्याहार . - 501^{24} स्त्रीधनजादि for स्त्रीराजादि . - 523 प्रसिद्धाद्धनिको for प्रमादाद्धनिनो . - 656^1 प्रदापयेत् for कल्पयेत् . - 688^6 द्रष्टव्यं for विशेषणं .

To this group of scribal errors also belong the following om.:

27^3 सम्याधीनः [विचारकाधीनः]. - 32^3 समूहः [गणो विप्रसमूहः]. - 62 यस्तु [यस्तु]. - 73^2 जयपराजयौ [...

जयपराजयौ]. 92^{10-11} द्रष्टव्यं [... सम्भाव्यं]. - 116b-116^{1} विशोधिते [... वधारिते]. - 141^{9-11} मिथ्योत्तर [... मिथ्योत्तर]. - 171^{3} [शपथदिव्यभेदात्].- 227 यस्मिन् [यस्मिन्]. - 246^{9-13} तृतीयस्य तु [...पंचमस्य तु]. - 270^{2} तौल्याद [न्य]त्रापि . - 283^{2} [न].- 298^{1-2} विहितालाभे [... विहितालाभे]. - 314d-314^{1} शास्त्रप्रदर्शनात् [... शास्त्रप्रदर्शने]. - 317 [प्रष्टव्या:] प्रब्रूयुरिति. - 322^{1} वादिप्रति[वादि]वस्तूनां. - 354 साक्षी [साक्ष्यं].- 400 [देशाद्] देशान्तरं . - 428^{17}[न]. - 449^{1} [लेख्य] दौर्बल्यं . - 501^{35-39} भावात् ना[प्यदृष्टे ... भावात् ना]पि यदुद्देशेन . - 537^{5} [अथ दिव्यानि]. - 576 संशया- [दस्मा]द्धर्म. - 589 कुर्यां [... कुर्या]त् . - 599 दिव्यानि [देयानि]. - 620 सर्वेषु [सर्वे]. - 663^{2} नृपद्रोहेषु [नृपद्रव्येषु]. - 706^{2} शपथा [न]न्तर. - 707^{4} तथा [तथा].- 749^{1}-750 पणानां [पणानां].- 751 यस्मिन् [यस्मिन्]. - 772^{2} स्वातन्त्र्या [स्वातन्त्र्य].

(2) Readings which are a priori unobjectionable.
Cf. f.

(3) Cases where the reading of M1 is the only possible one.
Cf. m.

c Recension Z*.

From the great number of common peculiarities occurring in the remaining three Mss, L C M2, it can be easily proved that a sub-archetype Z* must be postulated as their common ancestor.

Characteristics of Z*:

(1) One important argument for the close relation between L C M2 has been referred to above: the three Mss break off at the same point (736^{4}).

(2) Clerical errors:

9^{1} अशक्यं for सुकरं . - 25 ससम्यैस्तु for ससम्यस्तु . - 28 वित्तविद्भि for वित्तवद्भि. - 58 चौत्तरोत्तम: inverted.- 71d वृद्धस्त्रीबालरोगिण: does not have any connection with 68^{1} प्रतिबन्धककार्ये ; attr. by 74b(?).-

79[2] तत्त्वत: wrongly added before यदाह cf.80[2].- 93[2] मुज्यते for मज्यते .- 141[35] पूर्ववदुक्त for पूर्ववाद्युक्त .- 188 गुणवत्तरा: for शुचिमत्तरा: .- 194 लिखं for खिलं .- 252 कार्यै for कार्यो . - 363 यज्जन्म hypermetric. - 404[4] पणासहस्रार्द्धमिति for पणासहस्रं .- 488[3] एवमश्वादिषु for एवं पश्वादिषु.- 512[6] तर्हि for तौ हि .- 706 मुजदण्डश्च for मुजभङ्गश्च.- 708 न कुर्याद् for सत्कुर्याद्. - 736 भृगुहाराम for भूगृहाराम.

Common erroneous om.:

10[1-2] घर्मशास्त्रं [...sर्थशास्त्रं].- 141[6] [तस्यां] तदा [तत्र], तत्र being required for the place-qualification, तस्यां analogous with 141[5,7] तस्यां .- 141[31-32] [प्राङ्न्यायादस्य मेद:] प्राङ्न्यायो . - 157[4] [पक्षैकदेशव्यापि].- 179[4] [अ]भावस्यैव .- 209[3] [अन्त्यौ निर्णीतमङ्गौ] as opposed to सम्भावितमङ्गौ . - 278[6] [व्या]करोति .- 375[1] अ[र्था]न्यथात्वं .- 412[2] [स्मरणे तु]. - 425[3] मिघाने [विरुद्धपक्षाभिधाने च] acc. to 425[3] चतुर्था. -. 501[6] स्वत्वजनको वा [प्रमापको वा].- 599[1] महाभियोगा[ल्पाभियोगा.] पेक्षाया .- 600 [समाचरेत्].- 674-675 ब्राह्मणस्य [न ब्राह्मणस्य]. - 691[पूर्त]प्रदान.

(3) Readings which are a priori unobjectionable.
Cf. g.

ca Sub-recension C M2.

Of these three Mss, C and M2 are more closely related among them than they are with L. They must be derived from a sub-recension different from that of L.

Characteristics of C M2.

(1) Scribal errors.

31 तेनन for यत्तेन . - 71[1] विवाहप्रभृतय: for विवाहप्रवृत्त: . - 125[4] सं(विभावि)भाव्यमाने .- 197 राजपुत्रया for राजमुद्रया . - After 326d सत्यं साक्षी ब्रुवन् साक्ष्ये = 326a.- 427[3] यथा for तथा.- 437[6] चतुर्दशग्रहण for च तदग्रहण . - 483[5] स्वमूलभृत् for स्वमूलभूत . - 529[2]

व्यप(प)दे(दे)शादि . - 581[3] पूर्वं मात्रं for पूर्वस्थानं .- 640[1] अनेन विधिना for अनेन प्रतिनिधिना .

Common erroneous om.:

9 [स]प्राड्विवाकः . - 25 प्र[य]त्नतः . - 47 समा [सदः] सर्वान् . - 59[3-4] भाषा [... भाषा].- 100 [चान्यानि].- 110 विरुद्धश्च [यश्च].- 127[2] हरेत् [हारयेत्].- 148[1] आचारेण [व्यवहारेण]. - 162 उन्मत्त[मत्त].- 179[2] सा[न] भवतीति .- 186 वादिनः [... वादिनः].- 273 दोष[तो] भेदात् . - 297[16-21] मूलिकः [... कुलिकः].- 428[12] धिकाभिधाने [न्यूनाभिधाने].- 441[3] अराज[राज].- 534c-534[1] अ[साक्षिप्रत्यया...] साक्षित्वे.- 683[4] तदर्थे[शतार्धिके].- 692 [न].- 700 द्विसप्ताहा[त् त्रिसप्ताहा]द् . - 719[1-3] राजाज्ञया [... राजाज्ञया].

(2) Readings which are a priori unobjectionable.
Cf. ga.

M2 has been copied from C.

As far as the interrelation of C and M2 is concerned, it will now be proved that they not only belong to the same sub-recension, but that M2 has actually been copied from C, at least indirectly, perhaps even directly.

In the paragraph on the description of the Mss attention has been drawn upon the fact that M2 is another example (cf. M1) of a Ms copied into Devanāgarī by a scribe who was not thoroughly familiar with the Bengālī script of the Ms which he was copying. The errors of M2, inasmuch as they are the result of this fact, have been referred to above (cf. p.14-15). In view of the interrelation of C and M2, however, it should be stressed here, that these errors in M2 mostly occur at the very places where C was not clearly written, and that they exactly correspond to the way in which any careless copyist might be expected to render these passages.

This explains the following types of errors in M2:

46 यियत्सन्तं for यियासन्तं.- 75 शादेषु for शापेषु .- 114[1] दण्डे for पट्टे.- 142[2] तरुः for त्वत्तः .- 237 समाधितः for स्मारितः. - 275 विघते for भिद्यते . -

375[5] अवजेषु for अब्जेषु .- 429[2] तत्रैकादश for तत्रैकदेश.

The assumption that M2 has been copied from C is also supported by the following cases:

34 [त्रै]विधैरेव and 303[1-3] परीक्षणीया [अनभिसम्बद्धा: ... वर्जनीया] are explicable in C at the beginning of a new line, but there is no such reason for the same errors to occur in M2. -

27[3] सभ्याधीन: सत्यवादी (the latter word deleted) proves that the copyist too late observed the interpolation in C सभ्याधीन: (सत्यवादी ... सभ्याधीन: from 27c) विचारकाधीन: .

Characteristics of M2.
As compared to C, M2 has only very few variant readings:

30 [कुला]दि.- 94 तद[न]न्तर .- 125[5] [कुलस्त्रियां]. - 196 साधारणक for सावधारणक. - 263 [सर्वथा न ग्राह्या:].- 278[1-3] ऽन्यथावादे[...ऽन्यथावादे]. - 428[25-26] म [वेदिति म]वदेव . - 466[7] [हीनस्य]. - 717[3] चरित्राख्येन [निर्णयेन].

cb Version L.
Few variant readings are peculiar to L, the only representative of the second sub-recension of Z*.

7 कार्या[णि]. - 84 अभियुक्तस्त . - 182[1] प्रविशोधनादिकं . - 426[2] तदस[त्य]त्व .

- - - - -

THE CONSTITUTED TEXT AND THE APPARATUS CRITICUS.

From the preceding paragraph it has become clear that the variant readings in the different Mss can be reduced to two main classes. To the first class belong the apparent mislections, which must be presumed not to have occurred in the author's manuscript but to have originated through the interference of a number of scribes. It is upon the basis of this category of readings, of which a number of examples have been given above, that the genealogical relation of the Mss has been decided. The second class of variant readings includes all these cases where it is not

immediately possible to distinguish between the reading which has been used by the author and the one introduced by the scribes. It is the purpose of this paragraph to set forth a number of rules which will help to decide which of these readings should be considered to have been the original one, i.e., which reading should be reproduced in the printed text.
This distinction of the variant readings into two classes is also made use of for the redaction of the apparatus criticus. The apparatus criticus of this ed. will not reproduce all variant readings found in the Mss, but it will be limited to the variant readings of the second class, i.e., the readings for which it is not impossible that they were used by the author himself. The reason for this limitation is as follows. The selection of the original readings has been made among the variant readings of the second class upon the basis of the stemma codicum shown above. In the course of time the discovery of new Mss might necessitate a rearrangement of this stemma codicum and, consequently, of the selection of the original readings. In that case the present apparatus criticus will provide the material necessary for the purpose as far as the seven Mss used for this ed. are concerned.

General rule.

d The Mss have been reduced to three independent lines of tradition. When the reading in one of these lines is different from the one found in the other two, (and when both readings are equally possible,) as a general rule the reading of the majority will be preferred. It must be assumed that a variant reading could more easily be brought about in one sub-archetype than in the other two simultaneously.
This principle is applied as follows:

e - B1B2B3 is rejected in favour of M1 LCM2.

A fortiori, a reading is rejected when it occurs in the following Mss only:

ea -B1B2.

eaa -B1.
Exception: cf. mbc.

eab -B2.
Exception: cf. mbb.
Note. No exception to this rule is made for the numerous cases where B2 is the only Ms to (correctly) ap-

ply the rules of <u>saṃdhi</u> as against all other Mss preserving the <u>in pausa</u> form, even when the former is to be considered the more regular one.

<u>eb</u> -B3.

<u>Note</u>. This rule is also applied in the few cases where B2B3 happen to correspond; even if it may be presumed that they represent X*, the majority Y*Z* remains unchallenged.

<u>f</u> - M1 is rejected in favour of B1B2B3 LCM2.

<u>g</u> - LCM2 is rejected in favour of B1B2B3 M1.

A fortiori, the reading is rejected when it occurs in the following Mss only:

<u>ga</u> -CM2.

Exception: cf. <u>mba</u>.

<u>Note</u>. Examples for the application of these rules will be found in the <u>apparatus criticus</u>.

The postulate according to which the readings of T* correspond to those occurring in the majority of its recensions X*Y*Z* is carried through in a number of less obvious cases which deserve to be specially mentioned.

<u>h</u> <u>Application of the rules of saṃdhi</u>.

There is no reason to consistently introduce or avoid, against T*, the rules of <u>saṃdhi</u> at the end of the first and third pādas of ślokas, or in lemmata from quotations.

The same principle is also adhered to in the following cases:

32 2.3 श्रेणि: and श्रेणिर्वेणि°. - 138 3 पृथक् (cf.Vpra 56.30). - 405 पृथक् पृथक् दण्डनीया: .

Cf. also the cases in which B2 has introduced saṃdhi: <u>eab</u>.

<u>Note</u>. It has been impossible to apply this critical principle to the addition or omission of <u>avagraha</u>, with regard to which even individual Mss vary to such an extent that no valid conclusion can be derived.

<u>i</u> <u>Variant readings in quotations</u>.

The majority has not been deviated from in the case of variant readings occurring in texts quoted more than once in different parts of Vyci.

95 उत्तरेणावरुद्धस्य against 102 अवष्टब्धस्योत्तरेण .- 112 चैकत्र against 151 चैकस्मिन् . - 199 योऽवलम्बते against 437 यः समाश्रयेत् .- 181 पुनर्दिव्ये नियोजयेत् against 587 दिव्येन विनियोजयेत् . - 317 प्रष्टव्याः against 393 पृष्टाः . - 477 ऋक्थमिवा against 513 ऋक्थमिश्वा°.- 478 विचालयेत् against 514 निवारयेत्.

j Lectiones singulares in quotations from Smṛtis.
The reading critically derived from the stemma codicum upon the basis of the majority is preferred even when it is different from the vulgate reading of the quotation.

23 पश्येत . - 64 मार्गेण घर्षितः . - 76 कूटहरणे . - 453.454.455 अपाकर्तुं. - 470 आगमो . - 500 कालाभिहरणात् . - 546 धारितः . - 562 °वर्णमियं . - 569 ततः शुद्धस्तयोः . - 577 घृतः . - 638 °मरको °. - 645 एतैरेवाभियुक्तानां .

k Other cases.
Again, the majority of the recensions is adhered to:

546, etc.: the usual titles for the paragraphs on the various ordeals are not added. -
All over the text the different ways of concluding chapters and of adding colophons are preserved.

737[1] तीर पार. In the Dhātupāṭha these verbs are quoted in inverted order. [Cf. Liebich, B. Zur Einführung in die indische einheimische Sprachwissenschaft. III: Der Dhātupāṭha. Heidelberg 1920, p.25.]

Exceptions to the general rule.

First series.

1 There are a number of cases where the majority is not easily ascertainable, especially when the versions of recensions X* and Z* themselves vary. In these cases the selection of the reading is based upon various criteria which differ according to the individual cases.
Some of these criteria will be referred to in this paragraph:

<u>1a</u> Some readings are preferred inasmuch as they give a better sense.

32^{8} तदाह . - 41 भवेत् . - 140^{2} कात्यायनोऽपि. - 688^{2} वा.

<u>1b</u> The selection of a reading is sometimes based on analogy.

17^{2} and 19^{14} नियोज्य: , always <u>in pausa</u> under these circumstances. - 106.107 नि:प्रयोजन: , analogous with 104.- 144^{9} °पदा°, analogous with 144^{11}. - 321 द्विपद°, analogous with 322^{3} (majority Y*Z*).

<u>1c</u> Some readings have to be explained as (the more original) <u>lectiones difficiliores</u>.

263^{3} निगाद्य . - 372 वदी: . - 428^{9} तावदव°.

<u>1d</u> A reference has already been made to the fact that B2 often introduced <u>saṃdhi</u>, cf. <u>eab</u>. The text has also been constituted upon the assumption that this happened in the following cases:

28^{3} वचनात्. - 309 यत् . - 343 तस्मात् . - 501^{41} त्यागात्. - 529^{3} येन अर्थेन .- 554 स्यात्. - 555^{1} °ग:.

<u>1e</u> When even more than two possible readings are represented, it sometimes becomes necessary to find their common divisor.

92^{10} एवैतल्लाभे . - 115^{1} लिखति दण्ड:. - 146 चेति.

<u>1f</u> Most difficult are the cases where B1 only corresponds with either Y* or Z*. Except when there is a special reason to decide to the contrary:

150^{3} च B2 om. - 198^{5} निर्णयश्च B2 om. - 227^{1} दण्डार्हेषु ditt. in B2 Z*,

inasmuch as the copyist of B1 proved to be very independent and highly inclined towards introducing corr. (cf. <u>mbc</u>), there is always a suspicion of B1's readings not being derived from T* and X*; in such cases the other reading has been preferred.

86^{2} व्यवहारश्च. - 94 गच्छेत् . - 114 न्यूना°. - 134^{6} निस्तीर्यते . - 140 चतुर्विधा . - 144^{3} कण्ठरवेणोक्त°.

Second series.

m The reading of an undisputed majority cannot be preserved in all cases; sometimes it has to be rejected in favour of the reading of a single recension or even a single Ms. In these cases we must assume the error to go back as far as T*; its corr. by a later scribe will, of course, only be accepted in the ed. when there are reasons to believe that the corr. actually corresponds to the original text.

ma Some of these corr. amend a patently impossible reading.

59[3] B1 ॰भासरूपं for T* मासं (आभास is masc.!).- 72[1] M1 वस्तुतश्च for T* वस्तु तच्च . - 226[10] M1 ॰पदादु ॰ for T* पदाद्यु.

mb More important are the cases where the corr. are real improvements on passages which normally would not rouse the suspicion of a scribe. The credit of such corr. goes:

mba - to C: 644 प्रकल्पयेन्नैव for T* प्रकल्पयेदेवं.

mbb - to B2: 425[11] न्यूनमभ्यधिकं for T* न्यूनमधिकं. - 468[1] तदीयत्वेन न निश्चीयते for T* तदीयत्वेन निश्चीयते (cf. 509[1]).

mbc - most frequently to B1 whose scribe proves to have been a highly critical reader:

92[11] तथा for T* तावत्.- 93[2] तस्या for T* तस्य (cf. 93[2] तां, not तत्).- 105 अन्यार्थः for T* अल्पार्थः (106).- 198[4] सर्वत्रैव, T* om.- 226[7] द्वारक्रिया, T* om.

Third series.

n Only in very exceptional cases the data of all Mss have been disregarded in favour of a different reading which has no apparent support but which is, nevertheless, required for some other reason.

25 T* दृष्ट्वा is incapable of serving the etymological explanation of the element प्राड् in प्राड्विवाक. - 226 T* एकान्ते साहसे not only does not give a good sense, but ए and प्र can be easily interchanged. - 405 T* लोभादिबहुकरणानिश्चये : cf.

YMtā 2.81 एतच्च लोमादिकरणविशेषापरिज्ञाने. - 483[12] T* आगमस्मरणायोग्ये . - 501[27] T* च तथात्वाद् : cf. Vpra 161. - 589[2] T* भावाभावविशेषगोचरत्वात् . Bl भावाभावप्रमाणगोचरत्वात् , though solving the problem, cannot have been the original reading. - 679[6] T* एतद्द्विगुणे क्षत्रियेण . - 737[1] T* चौरादि .

- - - - -

EXTRINSIC TESTIMONIA.

The following critical material is extracted from the later dharmanibandhas in which passages of Vyci have been quoted. (For a complete list, cf. Appendix C.) Since all difficulties in constituting the text can be adequately solved by means of the Ms material only, no actual use will be made of the data contained in this paragraph. It has been added, however, because: (1) in some cases it confirms the readings adopted in the text; (2) in other cases it serves as a supplement to the material collected in the apparatus criticus; (3) it sometimes makes it possible to correct wrong readings in the later texts.

(1) Readings confirmed by more recent testimonia.

64 यद् : Vta 197 and YVmi 2.5. - 141[33] °ज्ञापक : Vpra 58. - 181[1] °नियमनात् : YVmi 2.7.- 278[3] तत्तुल्यस्य : Vpra 115. - 278[3] °प्रतिपदित °: Vpra 115. - 278[3] इत्यत्र : Vpra 115. - 278[3] कात्यायनतात्पर्यात् : Vpra 115. - 469[2] °परिपालन ° : Vpra 164. - 485 B 7.39d: Vta 225.

(2) Supplement to the apparatus criticus.

136[1] सहेतु °: Vpra 57 सहेतुक° (but cf. Vpra 57.23 सहेतु°). - 141[33] धार्यमाणत्व°: Vpra 58 धार्यमाणत्वादि°. - 151[5] °दर्शनात् : Vpra 66 °विषयदर्शनात् . - 151[10] न च त इत एव : Vpra 66 न चात एव. - 154[14] श्रुतिमूलता° : Vpra 66 श्रुतिमूलकता°.- 154[17] °सिद्धान्तत्वात् : Vpra 66 सिद्धान्तवचनात् . - 181[1] वाक्यस्य दिव्यप्राप्तौ : YVmi 2.7 वाक्ये . - 278 °वादी : Vpra 114 ब्रूते. - 278[1] °वादे : Vpra 114 °वादित्वे .- 428[1] शतं : YVmi 2.79 शते. - 428[2] आदरा-

भ्यास : YVmi 2.79 आहाराभ्यास°. - 469[3] तस्मात् : Vpra 164 यस्मादुपेक्षायां हानिशङ्का भवति तस्मात् . - 616 प्रायश्चित्तं परीक्षणं : Prta 474,512 प्रायश्चित्तपरीक्षणे. - 616 °धिवासश्च : Prta 474,512 विवाहश्च. - 706[2] °साधारणो : Vma 88.15 °साधारण°.

(3) <u>Readings to be corrected in Vpra</u>.

Vpra 59.21 अत्राधिकसमबल° : read अत्र समहीनबल° (Vyci 144[6]). - Vpra 65.26 न तदनुत्तरं : read तदनुत्तरं (Vyci 152[12]). - Vpra 65.22 साध्याः : read बाध्याः (Vyci 154[9]). - Vpra 65.33 and 66.2 लब्धार्थ° : read लघ्वर्थ° (Vyci 154[11-13]). - Vpra 78.27 सम्प्रतिपत्त्युत्तरेण क्रियापादेनापि : read सम्प्रतिपत्त्युत्तरे न क्रियापादो नापि (Vyci 138[8]). - Vpra 221.15 दिव्यभेदेऽनुपन्यासाद् : read दिव्यभेदेनोपन्यासाद् (Vyci 690[1]).

- - - - - - - - - - -

III

<u>THE PLACE OF THE VYAVAHĀRACINTĀMAṆI IN SANSKRIT SCIENTIFIC LITERATURE</u>.

Most dharmanibandhas consist of a number of separate treatises on the various aspects of <u>dharma</u>, the sacred law. One of these separate treatises has generally been devoted to the subject of <u>vyavahāra</u>. In a vast majority of cases these manuals on <u>vyavahāra</u> will be found to deal with substantive law (the <u>vivādapadas</u>) and adjective law (<u>vyavahāra</u> proper) at the same time. A few well known examples are: Vka, Mra, Pdha, Vca, Sca, Svi, Vpra, etc. We know of only few instances where the section on <u>vyavahāra</u> has been limited to the treatment of adjective law

only. In some of these nibandhas the substantive law seems to have been completely omitted: no section dealing with the vivādapadas is known to have been part of JĪMŪTAVĀHANA's Dharmaratna, of ṬOḌARAMALLA's Ṭoḍarānanda, and of RAGHUNANDANA's Smṛtitattva. As far as our present knowledge goes, two authors only can be said to have composed separate works on both substantive and adjective law. They are: CAṆḌEŚVARA in the Vivāda° and Vyavahāraratnākara, and VĀCASPATI MIŚRA in the Vivāda° and Vyavahāracintāmaṇi. Both the Vivādaratnākara and the Vivādacintāmaṇi have been printed and they are still referred to in the present Indian courts; neither the Vyavahāraratnākara nor the Vyavahāracintāmaṇi had been published so far.

The authors of the dharmanibandhas in general and their portions on vyavahāra in particular prove to have been men of impressive learning. In the first place they had a thorough knowledge of most of the ancient dharmasūtras and dharmaśāstras, and even of the passages from the great epics and the purāṇas dealing with their subject. But they had also made a careful study of the works of their predecessors in the same field. Not only do they frequently quote the earlier nibandhakāras and do they also critically discuss their points of view, but they have been influenced by them in many places even where this influence is not apparent at first sight. Finally, they were very well acquainted with the other branches of Sanskrit scientific literature, and the composition of their works has also been largely influenced by these.
To conclude this Introduction an attempt will be made to briefly summarize the various doctrines and works which were known in Vāc's time and which may be assumed to have

influenced the structure of Vyci. This enquiry will have to bear upon three fields of knowledge: vyavahāra, nyāya, and mīmāṃsā.

VYAVAHĀRA.

It would be possible here to reproduce the results of a careful comparison of Vyci with the texts of all earlier nibandhas and commentaries. These data would, however, be of relatively little value as long as a number of important connecting links are still missing in the history of this branch of Hindu Law. E.g., it would be of little use to list all passages in Vyci corresponding to or influenced by similar statements in Vka, as long as it cannot be ascertained whether such passages have actually been borrowed from Vka itself or via a later nibandha such as the unknown Vyra.

Vāc explicitly quotes from a number of authors and works. They can be chronologically arranged as follows (the dates which are much disputed in most cases have, for the sake of uniformity, been taken from Kane's History of Dharmaśāstra, vol.I):

1. The Pārijāta	A.D. 1000-1125
2. VIJÑĀNEŚVARA's Mitākṣarā	1070-1100
3. The Pradīpa	1100-1150
4. BHAVADEVA's Vyavahāratilaka	ca. 1100
5. LAKṢMĪDHARA's Kalpataru	1125-1150
6. HALĀYUDHA	1175-1200
7. HARINĀTHA's Smṛtisāra	1300-1350
8. CAṆḌEŚVARA's Vyavahāraratnākara	1314-1364

Of these works, nos. 2, 5, and 7 only are known at present (no. 7 in Ms form). The influence exercised by the two Maithilas LAKṢMĪDHARA and HARINĀTHA is undoubtedly great-

er than that of VIJÑĀNEŚVARA which seems to be limited to very few instances where his views have been compared with those of the Maithila School.

Besides the authors and works that have been explicitly quoted from, Vāc also had access to the works of a number of other predecessors, some of whom he has referred to by means of such expressions as SOME, OTHERS, THE OLD SCHOOL, etc.

The School of Mithilā has a great number of nibandhakāras, many of whom must also have written on the subject of vyavahāra. It can be said with certainty of the following authors who have been referred to in later works of the Mithilā School:

1. GRAHEŚVARA MIŚRA's Vyavahārataraṅga before 1300
2. GAṆEŚVARA ṬHAKKURA 1300-1325
3. It is also not impossible that, at the time when Vyci was written, Vāc had learned to know some works of VARDHAMĀNA II.

Not all authors not belonging to the Maithila School deserve to be mentioned here, but it should be kept in mind that the following important works have been written before Vyci and that they probably were known to Vāc:

1. ASAHĀYA's comm. on N, and perhaps also on G and M before 750
2. VIŚVARŪPA's Bālakrīḍā on Y 800-825
3. MEDHĀTITHI's comm. on M 825-900
4. The Kāmadhenu 1000-1100
5. The Prakāśa 1000-1100
6. GOVINDARĀJA's comm. on M 1050-1140
7. JĪMŪTAVĀHANA's Vyavahāramātṛkā 1090-1130
8. APARĀDITYA's comm. on Y 1100-1150
9. DEVAṆṆA BHAṬṬA's Smṛticandrikā 1150-1225

10. HARADATTA's comm. on Āp and G — 1100-1300
11. KULLŪKA BHAṬṬA's comm. on M — 1150-1300
12. SĀYAṆAMĀDHAVĀCĀRYA's Parāśara-dharmasaṃhitā — 1335-1360
13. VIŚVEŚVARA's Subodhinī on YMtā — ca. 1400
14. MADANASIṂHA's Madanaratnapradīpa — 1425-1450
15. ŚŪLAPĀṆI's Dīpakalikā on Y — 1375-1460
16. MISARU MIŚRA's Vivādacandra — ca.1450

We will have ample occasion to refer to most of these works in the Notes, wherever their point of view will be helpful to correctly understanding the text of Vyci.

NYĀYA.

It has already been stated above (cf. p.6) that Vāc was born of a family of well known Naiyāyikas, and a considerable number of Notes below will have to be devoted to Vāc's treatment of problems of legal procedure upon the background of Indian logic. This way of discussing matters of legal procedure in the light of Nyāya was not Vāc's invention. To a great extent he had been preceded in that respect by such authors as JĪMŪTAVĀHANA and others; but there can be no doubt as to the fact that in the minds of later nibandhakāras it was Vāc's name which became primarily connected with it, as can be easily proved by the numerous references to Vyci in the works of MITRA MIŚRA.

For a discussion of Vāc's place in the history of Indian logic, see D.C.Bhattacharya's article on Nyāya Works of Vācaspati Miśra II of Mithilā (cf. p.3).

The following important works on Nyāya and Vaiśeṣika had been written in Vāc's time, and most of them must have been part of his program of study in that field.

In the Ancient School of logic GAUTAMA's Nyāyasūtras had

been commented upon in VĀTSYĀYANA's Nyāyabhāṣya (ca.400), and they had been further explained in UDDYOTAKARA's Nyāyavārttika (ca.625) and its comm. and sub-comm. by VĀCASPATI I (ca.850), UDAYANA (10th cent.), etc.
Other important works had been: VĀCASPATI I's Nyāyasūcinibandha, Nyāyasūtroddhāra, etc.; BHĀSARVAJÑA's Nyāyasāra (10th cent.); JAYANTA's Nyāyamañjarī (? 11th cent.); UDAYANA's Nyāyakusumāñjali and its comm. and sub-comm. by VARDHAMĀNA I and RUCIDATTA.
KAṆĀDA's Vaiśeṣikasūtras had been interpreted by PRAŚASTAPĀDA's Padārthadharmasaṃgraha (before 7th cent.), and also in UDAYANA's Kiraṇāvalī and its comm. and sub-comm. by VARDHAMĀNA I and BHAGĪRATHA.
On the other hand, a severe criticism against Nyāya and Vaiśeṣika had been raised in SRĪHARṢA's Khaṇḍanakhaṇḍakhādya (ca.1200) and its comm. by VARDHAMĀNA I.
In the New School of logic GAṄGEŚA's Tattvacintāmaṇi(ca. 1200) had been commented upon several times, by VARDHAMĀNA I, JAYADEVA, VĀSUDEVA, RUCIDATTA, ŚAṄKARA MIŚRA, etc.
And the Syncretist School had already been represented by ŚIVĀDITYA's Saptapadārthī (12th cent.), and KEŚAVA MIŚRA's Tarkabhāṣā (before 1300).

MĪMĀṂSĀ.

Apart from the application of a number of rules of interpretation, Vyci will require only few references to the doctrine of Mīmāṃsā.
As to the Mīmāṃsā literature known to Vāc, be it sufficient to say that in his time JAIMINI's Mīmāṃsāsūtras had been commented upon in ŚABARA's Bhāṣya (ca.400), which had given rise to two different schools, one repre-

sented by PRABHĀKARA's Bṛhatī (ca.600), the other by the three works of KUMĀRILA: Ślokavārttika, Tantravārttika, and Ṭupṭīkā (ca.700).

- - - - - - - - - -

T E X T

0 [1] ओं

नमो गणेशाय ।

1 आराध्य नन्दनन्दनमनुसंधाय प्रयत्नतो ग्रन्थान् ।
श्रीवाचस्पतिविबुधो व्यवहृतिचिन्तामणिं तनुते ॥

2 भाषोत्तरक्रियापादा निर्णयः सोपदेशकः ।
चतुष्पात्तत्त्वविषयो व्यवहारो निरूप्यते ॥

[1] तत्रादावुपदेशे वर्णनीये तन्मूलव्यवहारसमयमाह नारदः -

3 धर्मैकताना: पुरुषा यदासन् सत्यवादिन: ।
तदा न व्यवहारोऽभून्न द्वेषो न च मत्सर: ॥ [NMā 1.1]

4 नष्टे धर्मे मनुष्याणां व्यवहार: प्रकीर्तित: ।
द्रष्टा च व्यवहाराणां राजा दण्डधर: स्वयं ॥ [NMā 1.2]

[1] व्यवहारो विवाद: । [2] नष्टे धर्मे कलियुगे । [3] दण्डधर इत्यनेनोद्धतशासकत्वमुक्तं ।

[4] याज्ञवल्क्य: -

5 यो दण्ड्यान् दण्डयेद्राजा सम्यग्वध्यांश्च घातयेत् ।
इष्टं स्यात्क्रतुभिस्तेन सहस्रशतदक्षिणै: ॥ [Y 1.359]

[1] सम्यक् यथाशास्त्रं ।

6 इति संचिन्त्य नृपति: क्रतुतुल्यफलं पृथक् ।
व्यवहारान् स्वयं पश्येत् सभ्यै: परिवृतोऽन्वहं ॥ [Y 1.360]

[1] कात्यायन: -

---

0 नमो गणेशाय : B1 नम: श्रीकृष्णाय । 4 प्रकीर्तित: : B1B2 प्रकीर्त्यते M1 प्रवर्त्तित: । 4[3] °नोद्धत° : B1B2B3 नोद्धृत्त । 4[3] °शासकत्व° : LCM2 शासन । 5[1] सम्यक् यथाशास्त्रं : LCM2 om । 5[1] सम्यक् : B2B3 सम्यग् ।

7 विनीतवेशो नृपतिः सभां गत्वा समाहितः । [K 55abcd]
आसीनः प्राङ्मुखो भूत्वा पश्येत् कार्याणि कार्यिणां ॥
8 स तु सभ्यैः स्थिरैर्युक्तः प्रज्ञामूलैर्द्विजोत्तमैः ।
धर्मशास्त्रार्थकुशलैरर्थशास्त्रविशारदैः ॥ [K 57]
9 सप्राड्विवाकः सामात्यः सब्राह्मणपुरोहितः ।
ससभ्यः प्रेक्षको राजा स्वर्गे तिष्ठति धर्मतः ॥ [K 56]

[1]विनीतेति - तथा चानुद्धतवेगस्य राज्ञो दर्शने वादिनो न क्षुभ्यन्तीत्यतः सम्यग्भाषादिसिद्धौ तत्त्वनिरूपणं सुकरं भवतीति भावः । [2]आसीनत्वप्राङ्मुखत्वे ऽदृष्टार्थे ।
[3]स्थिरैर्धैर्यविनिश्चलचित्तैः ।
[4]धर्मशास्त्रेति - तथा च धर्मशास्त्रार्थशास्त्रयोरविरोधमाश्रित्य विचारणीयं । [5] विरोधे तु धर्मशास्त्रोक्तमेव ग्राह्यं । [6] तदुक्तं भविष्यपुराणे -

10 स्मृत्यर्थयोर्विरोधे तु अर्थशास्त्रस्य बाधनं ।
परस्परविरोधे तु न्याययुक्तं प्रमाणवत् ॥

[1]स्मृतिर्धर्मशास्त्रं मन्वादिसंहिता । [2]अर्थो ऽर्थशास्त्रं दण्डनीत्यादि । [3]धर्मशास्त्रयोरेव तु परस्परविरोधे विषयभेदादिनाप्यसमाधेये निर्युक्तिकं बाध्यत इत्यर्थः । [4] नारदो ऽप्याह -

11 धर्मशास्त्रविरोधे तु युक्तियुक्तो विधिः स्मृतः ।
व्यवहारो हि बलवान् धर्मस्तेनावहीयते ॥ [N Mā 1.40]

[1]व्यवहारो युक्तिः ।
[2]प्राड्विवाको वक्ष्यते । [3]प्रेक्षकः सम्यग्विचारको राजा विचारजनितात् पुण्यात्तैर्विचारसहायैः सह स्वर्गे तिष्ठतीत्यर्थः ।

[4]नारदः -

12 राजा धर्मसहायस्तु द्वयोर्विवदमानयोः ।
सम्यक्कार्याण्यवेक्षेत रागद्वेषविवर्जितः ॥ [NQ 1.4]
13 धर्मेणोद्धरतो राज्ञो व्यवहारान् कृतात्मनः ।
सम्भवन्ति गुणाः सप्त सप्त वह्नेरिवार्चिषः ॥ [NMā 1.32]

---

8 प्रज्ञा° : B3 प्राज्ञा । 9 धर्मतः : B2 सर्वदा । 9[1] चानुद्धतवेगस्य : LCM2 चारव्यसमस्य । 9[1] दर्शने : B1B2 दर्शनेन । 9[5] धर्मशास्त्रोक्तमेव : B1B2 धर्मशास्त्रमेव । 9[5] ग्राह्यं : LCM2 विचारणीयमिति । 10[3] परस्पर° : B1B2B3 om । 10[3] निर्युक्तिकं : B1B3 निर्युक्तकं । 11 हि : B2 पि । 11[1] युक्तिः :LCM2 हि युक्तिः । 11[3] राजा : M1 om ।

14 धर्मश्चार्थश्च कीर्तिश्च लोकपक्तिरुपग्रहः ।
प्रजाभ्यो बहुमानश्च स्वर्गे स्थानं च शाश्वतं ॥[NMā 1.33]

15 तस्माद्धर्मासनं प्राप्य राजा विगतमत्सरः ।
समः स्यात्सर्वभूतेषु बिभ्रद्वैवस्वतं व्रतं ॥[NMā 1.34]

[1] उद्धरतः सम्यङ् निर्णयतः । [2] लोकपक्तिः लोकैः स्तोतव्यता । [3] उपग्रहो ऽनुवर्तनीयत्वं । [4] वैवस्वतं व्रतं सर्वभूतसमत्वं ।

[5] यमः -

16 श्रुतिस्मृतिविरुद्धं च भूतानामहितं च यत् ।
न तत्प्रवर्तयेद्राजा प्रवृत्तं च निवर्तयेत् ॥[Ya ?]

17 न्यायापेतं यदन्येन राज्ञाज्ञानकृतं भवेत् ।
तदप्याम्नायविहिते पुनर्न्याये निवेशयेत् ॥[Ya ?]

[1] आम्नायो वेदः ।

[2] स्वयं च व्यवहारदर्शनाशक्तौ तत्कामो धार्मिको ब्राह्मणो नियोज्यः ।
[3] तदाह कात्यायनः -

18 यदा कार्यवशाद्राजा न पश्येत्कार्यनिर्णयं ।
तदा नियुंज्याद्विद्वांसं ब्राह्मणं वेदपारगं ॥[K 63]

19 दान्तं कुलीनं मध्यस्थमनुद्वेगकरं स्थिरं ।
परत्र भीरुं धर्मिष्ठमुद्युक्तं क्रोधवर्जितं ॥[K 64]

[1] कार्यवशाद्राजकार्यान्तरवशात् । [2] कार्यनिर्णयं भाषोत्तरादिकं । [3] विद्वांसं वेदाविरुद्धतर्कदारुणमतिं । [4] वेदपारगं परिशीलितधर्मशास्त्रं । [5] दान्तं तपःक्लेशसहं । [6] कुलीनं संकरादिदोषशून्यं मातापितृपरम्पराकं । [7] मध्यस्थं सर्वत्र समदृष्टिं । [8] अनुद्वेगकरं मत्सरपारुष्याधकर्तारं । [9] स्थिरं लोभाधनाकृष्टं । [10] परत्र भीरुं सदा परलोकसशंकं । [11] धर्मिष्ठं स्ववर्णाश्रमविहितक्रियानिष्ठं । [12] उद्युक्तं निरलसं । [13] क्रोधवर्जितं तत्त्वविचारविरुद्धक्रोधहीनं ।

[14] धर्मब्राह्मणाभावे क्षत्रियः तदभावे वैश्यो नियोज्यः । [15] तदाह सुस्व -

---

15[2] लोकैः : B1 लोके B2 लोक । 17[2] धार्मिको : M1 धार्मिक । 19[1] °वशाद् : B1B3 वशात् । 19[6] °शून्यं : B1 शून्य । 19[8] मत्सर° : B2 मात्सर्य । 19[9] °कृष्टं : B1B2B3 कृष्यं । 19[12] निरलसं : B2 अनलसं । 19[14] वैश्यो नियोज्यः : B3 वैश्याः नियोज्याः ।

20 यदि विप्रो न विद्वान् स्यात् क्षत्रियं तत्र योजयेत् ।
वैश्यं वा धर्मशास्त्रज्ञं शूद्रं यत्नेन वर्जयेत् ॥ [K 67]

[1] मनुः -

21 यस्य राज्ञस्तु कुरुते शूद्रो धर्मविवेचनं ।
तस्य सीदति तद्राष्ट्रं पङ्के गौरिव पश्यतः ॥[M 8.21]

[1] व्यासः -

22 द्विजान् विहाय यः पश्येत् कार्याणि वृषलैः सह ।
तस्य प्रक्षुभ्यते राष्ट्रं बलं कोषश्च नश्यति ॥[Vy 1.5]

[1] एतेन विचारणे वृषलसहायता निरस्ता ।

[2] बृहस्पतिः -

23 राजा कार्याणि पश्येत प्राड्विवाकोऽथवा द्विजः ।
न्यायाङ्गान्यग्रतः कृत्वा सभ्यशास्त्रमते स्थितः ॥[B 1.65]

24 विवादे पृच्छति प्रश्नं प्रतिप्रश्नं तथैव च ।
प्रियपूर्वं प्राग्वदति प्राड्विवाकस्ततः स्मृतः ॥[B 1.69]

[1] व्यासः -

25 विचारानुगतं पृष्ट्वा ससभ्यस्तु प्रयत्नतः ।
विचारयति येनासौ प्राड्विवाकस्ततः स्मृतः ॥[Vy 1.7]

[1] इदं त्वस्य निरुक्तमात्रं । [2] प्राड्विवाकत्वं तु व्यवहारक्षमतैव ।

[3] बृहस्पतिः -

26 शब्दाभिधानतत्त्वज्ञौ गणनाकुशलौ शुची ।
नानालिपिज्ञौ कर्तव्यौ राज्ञा गणकलेखकौ ॥ [B 1.81]

27 आकारणे रक्षणे च साक्ष्यर्थिप्रतिवादिनां ।
सभ्याधीनः सत्यवादी कर्तव्यः शुद्धपुरुषः ॥ [B 1.82]

[1] शब्दो व्याकरणं । [2] अभिधानं कोषः । [3] सभ्याधीनः विचारकाधीनः । [4] पुरुषः प्रेष्यकः ।

20[1] मनुः : B1B2 om । 22[1] विचारणे : M1 विचारेण । 23 पश्येत : L CM2 संपश्येत् । 25[2] प्राड्विवाकत्वं : M1 प्राड्विवाकस्य । 25[2] व्यवहार° : B1 विचार । 27[4] पुरुषः : B3 पूरुषः ।

[5]कात्यायनः -

28 कुलशीलवयोवृत्तवित्तवद्भिरमत्सरैः ।
वणिग्भिः स्यात्कतिपयैः कुलभूतैरधिष्ठितं ॥[K 58]

[1]करणमित्यन्वयः ।

29 ये त्वरण्यचरास्तेषामरण्ये करणं भवेत् ।
सेनायां सैनिकानां च सार्थेषु वणिजां तथा ॥[B 1.73]

[1]करणं सभा ।

30 कुलादिभ्योऽधिकाः सभ्यास्तेभ्योऽध्यक्षः स्मृतोऽधिकः ।
[B 1.94cd]
31 सर्वेषामधिको राजा धर्म्यं यत्तेन निश्चितं ।
उत्तमाधममध्यानां विवादानां विचारणात् ।[B 1.95]
32 उपर्युपरि बुद्धीनां चरन्तीश्वरबुद्धयः ॥[B 1.96ab]

[1]कुलं वादिनोर्वैश्याः । [2]आदिपदात् श्रेणिः गणाश्च । [3]तत्र श्रेणिर्वणिगादिसमूहः गणो विप्रसमूहः । [4]सभ्यः नियुक्तः साधुः । [5]अध्यक्षः प्राड्विवाकः । [6]एतेषां राजान्तानां निर्णयकरणे उत्तरोत्तरस्य बलवत्त्वं ज्ञानोत्कर्षादित्यर्थः ।

[7]अभियुक्तवचनं तु सर्वथादरणीयं । [8]तदाह नारदः -

33 वणिक्शिल्पिप्रयोगेषु कृषिरङ्गोपजीविषु ।
अशक्यो निर्णयो ह्यत्र तत्त्वज्ञैरेव कारयेत् ॥ [NQ 1.5]

[1]उपलक्षणं चैतत् - [2]यो यत्र विज्ञस्तत्साहित्येन तन्निर्णेतव्यमित्यर्थः ।

[3]तथा -

34 तपस्विनां तु कार्याणि त्रैविद्यैरेव कारयेत् ।
मायायोगविदां चैव न स्वयं कोपकारणात् ॥[B 1.76]

[1]येषां कोपाद् भयं भवति तेषां विचारस्तज्जातीयद्वारैव कारयितव्यः ।

---

29 च : B2 तु । 32[2] श्रेणिः गणाश्च : B3 श्रेणिर्गणाश्च । 32[3] श्रेणिर्वणि° : B1 श्रेणिः वणि । 32[3] वणिगादिसमूहः : B3 वणिगादयः । 32[3] गणो : B2 गणाश्च । 32[3] गणो विप्रसमूहः : M1 om । 32[8] तदाह : B1B2 तथा च LC तथाह M2 तथाहि । 33 °योगेषु : B1B2 योगे तु । 33[1-3] उपलक्षणं ... तथा : LCM2 बृहस्पतिः । 33[2] यत्र : B2 त्र । 33[2] विज्ञस् : B1 विज्ञः । 33[2] °साहित्येन : B2 साहित्येनैव । 34[1] कोपाद् भयं : B1B2 कोपात्तद्भयं । 34[1] कारयितव्यः : B3 कार्यः ।

[2] मनुः -

5 आश्रमेषु द्विजातीनां कार्ये विवदतां मिथः ।
न विब्रूयान्नृपो धर्मं चिकीर्षन् हितमात्मनः ॥[M 8.390]

[1] आश्रमेषु ब्रह्मचर्यादिषु किं विहितं किमविहितमिति विमतौ मङ्‌गिप्रकोपभीत्या विचारप्रवृत्तो ऽपि राजा न विशिष्य धर्मं कथयेदित्यर्थः ।

36 यथार्हमेतानभ्यर्च्य ब्राह्मणैः सह पार्थिवः ।
शान्त्वेन प्रशमय्यादौ स्वधर्मं प्रतिपादयेत् ॥[M 8.391]

[1] शान्त्वेन प्रियवचनेन आदौ तेषां कोपं शमयित्वा ब्राह्मणद्वारैव तद्धर्मं तेषु प्रतिपादयेदित्यर्थः ।

[2]अथ सभ्योपदेशः ।

[3] तत्र बृहस्पतिः -

37 अज्ञानतिमिरोपेतान् संदेहपटलान्वितान् ।[B 1.96cd]
38 निरामयान् यः कुरुते शास्त्रांजनशलाकया ।
इह कीर्तिं राजपूजां लभते स्वर्गतिं च सः ।
तस्मात् संशयमूढानां प्रकर्तव्यश्च निर्णयः ॥[B 1.97]

[1] अत्र नारदः -

39 नानियुक्तेन वक्तव्यं व्यवहारे कथंचन ।
नियुक्तेन तु वक्तव्यमपक्षपतितं वचः ॥[NMā 3.1]

[1] शास्त्रज्ञेन त्वनियुक्तेनापि वक्तव्यं । [2] तदाह स एव -

40 अनियुक्तो नियुक्तो वा शास्त्रज्ञो वक्तुमर्हति ।
दैवीं वाचं स वदति यः शास्त्रमुपजीवति ॥ [NMā 3.2]

[1] दैवीं शास्त्रीयां ।

[2] बृहस्पतिः -

41 लोभद्वेषादिकं त्यक्त्वा यः कुर्यात् कार्यनिर्णयं ।
शास्त्रोदितेन विधिना तस्य यज्ञफलं भवेत् ॥ [B 1.98]

---

35 विब्रूयान् : LCM2 च ब्रूयान् । 36 यथार्ह° : B1B2 तथा यथार्हं । 38 प्रकर्तव्यश्च निर्णयः : B1B2 प्रकर्तव्यो विनिर्णयः । 39[1] °ज्ञेन त्वनियुक्ते° : B2B3 ज्ञेनानियुक्ते । 40[1] शास्त्रीयां : CM2 शास्त्रमयीं । 41 भवेत् : B1B2 LCM2 लभेत् ।

[1]अधर्मप्रवृत्ते राज्ञि सभ्यकृत्यमाह कात्यायनः -

42 अधर्माज्ञां यदा राजा नियुंजीत विवादिनां ।
विज्ञाप्य नृपतिं सभ्यस्तदा सभ्यङ् निवर्तयेत् ॥ [K 78]

43 सभ्येनावश्यवक्तव्यं धर्मार्थसहितं वचः ।
शृणोति यदि नो राजा स्यात्तु सभ्यस्तदानृणः ॥[K 77]

44 न्यायमार्गादपेतं तु ज्ञात्वा चित्तं महीपतेः ।
वक्तव्यं तत्प्रियं नात्र स सभ्यः किल्बिषी भवेत् ॥ [K 76]

45 अधर्मतः प्रवृत्तं हि नोपेक्षेरन् समासदः ।
उपेक्षमाणाः सनृपा नरकं यान्त्यधोमुखाः ॥[K 74]

46 अन्यायतो यियासन्तं ये ऽनुयान्ति समासदः ।
ते ऽपि तद्भागिनस्तस्माद्बोधनीयः स तैर्नृपः ॥ [K 75]

[1]अधर्माज्ञा अधर्मानुबन्धिनी आज्ञा ।
[2]स सभ्य इति - यो राज्ञोक्तमधर्ममनुमोदतीत्यर्थः ।
[3]अधर्मत इति - तथा चोत्पथगामिनो राज्ञ उपेक्षणे सभ्यस्यापि दोष इत्यर्थः ।
[4]अन्यायत इति - तथा चोत्पथगामिनो राज्ञो ऽनुसरणे सभ्यस्यापि दोष इत्यर्थः ।

[5]मनुः -

47 पादो ऽधर्मस्य कर्तारं पादः साक्षिणमृच्छति ।
पादः समासदः सर्वान् पादो राजानमृच्छति ॥ [M 8.18]

[1]अधर्मस्य कर्तारं वादिनं । [2] राजपदमिह विचारकपरं ।

[3]कात्यायनः -

48 कार्यस्य निर्णयं सम्यक् ज्ञात्वा सभ्यस्तथा वदेत् ।
अन्यथा नैव वक्तव्यं वक्ता द्विगुणदण्डभाक् ॥ [K 80]

49 सभ्यदोषात्तु यन्नष्टं देयं सभ्येन तत्तथा ।
कार्यं तु कार्यिणामेवं निश्चितं तु विचारयेत् ॥ [K 81]

[1]एवं निश्चितं असम्यग्विचारितं पुनर्विचारयेदित्यर्थः ।

[2]बृहस्पतिः -

46[3] अधर्मत : B2 अधर्मतः । 46[3] इत्यर्थः : M1 इत्यस्यार्थः । 47[2] °पदमिह : LCM2 पदं । 49 तत्तथा : B3 तद्भवेत् ।

50 अन्यायवादिन: सभ्यास्तथैवोत्कोचजीविन: ।
विश्वस्तवंचकाश्चैव निर्वास्या: सर्व एव ते ॥ [B 1.107]

[1] विष्णु: -

51.52 कूटसाक्षिणां सर्वस्वापहार: कार्य:। उत्कोचजीविनां सभ्यानां च ॥ [Vi 5.179-180]

[1] बृहस्पति: -

53 कूटसभ्य: कूटसाक्षी ब्रह्महा च समा: स्मृता: । [B 5.34ab]
अनिर्णीते तु यद्यर्थे सम्भाषते रहो ऽर्थिना ॥ [B 1.102ab]

[1] अथ व्यवहारं विविनक्ति कात्यायन: -

54 वि नानार्थे ऽव संदेहे हरणं हार उच्यते ।
नानासंदेहहरणाद् व्यवहार इति स्मृत: ॥ [K 26]

[1] स च द्विविध: । [2] यदाह नारद: -

55 सोत्तरो ऽनुत्तरश्चैव स विज्ञेयो द्विलक्षण: ।
सोत्तरो ऽभ्यधिको यत्र विलेखात्पूर्वक: पण: ॥ [NMā 1.4]

[1] यत्र भाषालिखनात् पूर्वं यो ऽत्र जीयते स इयन्तं दण्डं जेत्रे ददातीत्येवंरूप: पणो वृत्त: स सोत्तरो व्यवहार: । [2] तत्र सोत्तरपणे विवादे पराजित: पणं च दण्डं च दाप्य इत्याह स एव -

56 विवादे सोत्तरपणे द्वयोर्यस्तत्र हीयते ।
स पणं स्वकृतं दाप्यो विनेयश्च पराजये ॥ [NMā 1.5]

[1] स चायं व्यवहारो यत्र यदा द्रष्टव्यस्तदाह कात्यायन: -

57 समास्थाने तु पूर्वाह्णे कार्याणां निर्णयं नृप: ।
कुर्याच्छास्त्रप्रणीतेन मार्गेणामित्रकर्षण: ॥ [K 60]

[1] स चायं व्यवहारश्चतुष्पादित्याह बृहस्पति: -

58 पूर्वपक्ष आद्यपादो द्वितीयश्चोत्तरो मत: ।

---

51 कार्य: : B1B2 कर्तव्य: । 52 सभ्यानां च : B1B2 च सभ्यानां । 55 यत्र : B1B2 तत्र । 55[1] जीयते : B2 पराजीयते B3 हीयते । 55[2] तत्र : B1B2 अत्र । 55[2] पणं च : B2B3 पणं ।

क्रियापादस्तथा चान्यश्चतुर्थो निर्णयः स्मृतः ॥[B 1.17]

[1]तथा -

59 मिथ्योक्तौ स चतुष्पादः प्रत्यवस्कन्दने तथा ।
प्राङ्न्याये च स विज्ञेयो द्विपात् सम्प्रतिपत्तिषु ॥[B 2.3]

[1]सम्यग्भाषोत्तरे सतीति विशेषणीयं । [2]अत एव यत्र भाषोत्तरानर्हा तत्रार्थिवादो निर्णयश्चेति पादद्वयमेव । [3]यत्र चोत्तरमाभासरूपं तत्र भाषाप्रत्यर्थिवचननिर्णया इति पादत्रयमेव । [4]न च - सम्प्रतिपत्तावपि भाषोत्तरनिर्णया इति पादत्रयमिति वाच्यं । [5]उत्तरवादिनैव भाषार्थस्याङ्गीकृतत्वेन निर्णेतव्याभावात् । [6]स्वोक्त्यैव तस्य पराजितत्वात् । [7]अत्र निर्णयकरणरूपायास्तृतीयप्रवृत्तेरभावात् ।

[8]नारदः -

60 गुरुशिष्यौ पितापुत्रौ दम्पती स्वामिभृत्यकौ ।
एतेषां समवेतानां व्यवहारो न सिध्यति ॥[NQ 1.6]

61 एकस्य बहुभिः सार्धं स्त्रीभिः प्रेष्यकरैस्तथा ।
अनादेयो भवेद्वादो विद्वद्भिः परिकीर्तितः ॥[NQ 1.7]

62 राज्ञा विवर्जितो यस्तु यस्तु पौरविरोधकृत् ।
राष्ट्रस्य वा समस्तस्य प्रकृतीनां तथैव च ॥[B 2.43 = H 1.38]

63 अन्ये ऽपि ये पुरग्राममहाजनविरोधिनः ।
अनादेयास्तु ते सर्वे व्यवहाराः प्रकीर्तिताः ॥[B 2.32 = H 1.39]

[1]याज्ञवल्क्यः -

64 स्मृत्याचारव्यपेतेन मार्गेण धर्षितः परैः ।
आवेदयति यद्राज्ञे व्यवहारपदं हि तत् ॥ [Y 2.5]

[1]तत्र पूर्वपक्षो भाषापादः । [2]स चार्थिवाच्यः । [3]अर्थित्वं चाधिकर्षी-

---

58 चान्यश्च : B1 चान्यः । 58 तथा चान्यश्च॰ : B3 तृतीयः स्याच्च । 59[3] यत्र चोत्तर॰ : B1 यत्रोत्तर । 59[4] ॰त्रयमिति : B3 त्रयमेवेति । 59[5] ॰कृतत्वेन : B2B3LCM2 कृतत्वे । 59[6] स्वोक्त्यैव : B1 स्ववचनेनैव B2 स्वोक्तेनैव । 59[6] तस्य : B3 om । 61 प्रेष्य॰ : B1B2B3 प्रेष्य । 64 मार्गेण धर्षितः : B1B2B3 मार्गेणाधर्षितः । 64 यद्राज्ञे : M1 चेद्राज्ञे ।

डावशात् ।[4] सा च द्रव्यापचाराद्वा प्रारिप्सितकार्यभङ्गप्रसङ्गाद्वा न तु प्रथमनिवेदनमात्रेण ।[5] तदाह व्यासः -

65 यस्य चाभ्यधिका पीडा कार्यं वाप्यधिकं भवेत् ।
तस्यार्थिभावो दातव्यो न यः पूर्वं निवेदयेत् ॥[Vy ?]

[1]नारदः -

66 वक्तव्ये ऽर्थे न तिष्ठन्तमुत्क्रामन्तं च तद्वचः ।
आसेधयेद्विवादार्थं यावदाह्वानदर्शनं ॥[NMā 1.47]

67 आसेधकाल आसिद्ध आसेधं यो ऽतिवर्तते ।
स विनेयो ऽन्यथा कुर्वन्नासेद्धा दण्डमर्हति ॥ [NMā 1.51]

[1]आसेद्धा विवादविमुखप्रत्यर्थिधर्ता अर्थी ।

[2]तथा -

68 नदीसंतारकान्तारदुर्देशोपप्लवादिषु ।
आसिद्धः परमासेधमुत्क्रामन्नापराध्नुयात् ॥ [NMā 1.49]

[1]प्रत्यर्थिनां राजनेतव्यत्वे ऽपि कांश्चित् प्रतिबन्धककार्यप्राप्तिपर्यन्तं नानेतव्यानाह स एव -

69 निर्वेष्टुकामो रोगार्तो यियक्षुर्व्यसने स्थितः ।
अभियुक्तस्तथान्येन राजकार्योद्यतस्तथा ॥[NMā 1.52]

70 गवां प्रचारे गोपालाः सस्यबन्धे कृषीवलाः ।
शिल्पिनश्चापि तत्काले आयुधीयाश्च विग्रहे ॥[NMā 1.53]

71 अप्राप्तव्यवहारश्च दूतो दानोन्मुखो व्रती ।
विषमस्थाश्च नासेध्या न चैतानाह्वयेन्नृपः ॥ [NMā 1.54]

[1]निर्वेष्टुकामो विवाहप्रवृत्तः ।[2]आयुधीयाः शस्त्रोपजीविनः ।[3]अप्राप्तव्यवहारः षोडशवर्षावयस्कः ।[4]एते उत्तमर्णादिना नासेध्या न

64[4] पचाराद्वा : B2 पहारात् : LCM2 पहाराद्वा । 64[4] °कार्य° : B2 कर्म । 64[4] °भङ्गप्रसङ्गाद्वा : M1 भङ्गाद्वा । 65 यस्य चाभ्यधिका : B2 यस्य स्यादधिका । 65 तस्या° : B2 तत्रा । 66 वक्तव्ये ऽर्थे : B2B3 वक्तव्यार्थे । 67 ऽतिवर्तते : B3 वर्तयेत् । 68[1] राज° : M1 राजा । 68[1] °नेतव्यत्वे : B1B2 नेतव्यसत्वे । 68[1] प्रतिबन्धक° : B1B2 प्रतिबन्ध । 68[1] स एव : B2 पुनर्नारदः । 69 °कार्योद्यत° : B1B2M1 कर्मोद्यत । 71[2] शस्त्रोपजीविनः : B2 शस्त्रोद्यताः । 71[3] °वर्षावयस्कः : B1B2B3 वर्षावरवयस्कः ।

विधारणीयाः निवेदिते ऽपि वादिना राज्ञा नाह्वातव्याः,[5] तत्कार्यसमाप्तिपर्यन्तं तत्कार्यविरोधात् ।

[6] कात्यायनः -

72 गृहीतग्रहणो न्यायो न प्रवर्त्यो महीभुजा ।
तस्य वा तत्समर्प्यं स्यात् स्थापयेद्वा परस्य तत् ॥ [K 120]

[1] गृह्यत इति ग्रहणं विवादपदं वस्तु । [2] तच्च प्रतीतिपदो प्रत्यर्थिनि अन्यथा मध्यस्थे यावद्विचारं धार्यं ।

[3] स्वयं विवादाशक्तौ प्रतिनिधिमाह नारदः -

73 अर्थिना संनियुक्तो वा प्रत्यर्थिप्रहितो ऽपि वा ।
यो यस्यार्थे विवदते तयोर्जयपराजयौ ॥ [NMā 2.22]

[1] तयोरिति वादिनोः । [2] तेन नियुक्तस्यैव जयपराजयौ नियोक्तुर्व्यवहार्यावित्यर्थः ।

[3] बृहस्पतिः -

74 अप्रगल्भजडोन्मत्तवृद्धस्त्रीबालरोगिणां ।
पूर्वोत्तरं वदेत्तद्वदनियुक्तो ऽथवा नरः ॥ [B 1.142]

[1] एतेषां भाषामुत्तरं च अनियुक्तो नियुक्तो वा हितो ब्रूयादित्यर्थः ।

[2] क्वचित्प्रतिनिध्यभावमाह कात्यायनः -

75 ब्रह्महत्यासुरापाने स्तेये गुर्वङ्गनागमे ।
अन्येष्वप्यभिशापेषु प्रतिवादी न दीयते ॥ [K 93]

76 मनुष्यमारणे स्तेये परदाराभिमर्षणे ।
अभक्ष्यभक्षणे चैव कन्याहरणदूषणे ॥ [K 94]

77 पारुष्ये कूटहरणे नृपद्रोहे तथैव च ।
प्रतिवादी न दातव्यः कर्ता तु विवदेत्स्वयं ॥ [K 95]

[1] नारदः -

78 यो न भ्राता न च पिता न पुत्रो न नियोगकृत् ।

71[4] नाह्वातव्याः : LCM2 नोद्वेजितव्याः । 72 न्यायो : B1 न्याये । 72[1] वस्तु तच्च : B1B2B3 वस्तुतः । 72[2] धार्यं : LCM2 कार्यं । 74[1] भाषामुत्तरं : LCM2 भाषोत्तरं । 74[1] च अनियुक्तो : B2B3 चानियुक्तो । 77 पारुष्ये : B1B2B3 पारुष्य । 77 °हरणे : B2 करणे । 77 तु : B3 च ।

परार्थवादी दण्ड्यः स्यात् व्यवहारेषु विब्रुवन् ॥ [NMā 2.23]

[1] न्यायार्थमुपस्थितयोश्च करणप्रवेशे प्रतिभूग्राहिः । [2] अर्थिनोऽपि मन्दपदास्य दण्डभिया पलायनसम्भवात् । [3] तदाह याज्ञवल्क्यः -

79 उभयोः प्रतिभूग्राहिः समर्थः कार्यनिर्णये ॥ [Y 2.10cd]

[1] प्रतिभुवस्त्वभावे द्वौ रक्षणीयौ ।[2] यदाह कात्यायनः -

80 अथ चेत्प्रतिभूर्नास्ति वादयोग्यस्य वादिनः ।
स रक्षितो दिनस्यान्ते दद्याद्भृताय वेतनं ॥ [K 117]

[1] दूतो राजप्रेष्यस्तद्धर्ता ।

[2] तत्त्वतः पराजितोऽपि विचारदोषशङ्कया पुनर्विचारं याचमानः विवादपदाद् द्विगुणं दण्डमङ्गीकार्य विवादः कार्यः । [3] तदाह नारदः -

81 तीरितं चानुशिष्टं च यो मन्येत विधर्मतः ।
द्विगुणं दण्डमास्थाय तत्कार्यं पुनरुद्धरेत् ॥ [NMā 1.65]

[1] तीरितं निर्णये समापितं । [2] अनुशिष्टं परेषु तथा प्रतिपादितं ।

[3] असद्विचारे विचारान्तरमर्हत्येवेत्याह स एव -

82 असाक्षिकं तु यद् दृष्टं विमार्गेण च तीरितं ।
असम्मतमतैर्दृष्टं पुनर्दर्शनमर्हति ॥ [NQ 1.14]

[1] असाक्षिकमप्रामाणकं ।

[2] कात्यायनः -

83 तत्राभियुक्ता प्रब्रूयादभियुक्तस्त्वनन्तरं ।
तयोरुक्ते सदस्यस्तु प्राड्विवाकस्ततः परं ॥ [K 121]

---

78 परार्थ० : B2B3 परार्थे । 78 स्यात् : B1B2B3 स्याद् । 78[1] ०स्थितयोश्च : B1B2B3 स्थितयोः । 78[2] पलायनसम्भवात् : LCM2 पलायनं भवति । 79 ०निर्णये : B2 सिद्धये । 79[1] द्वौ : LCM2 तौ । 80[1] ०प्रेष्य० : B1B3 प्रेष्य । 80[2] याचमानः : B2 याचमानो । 80[2] विवादः : B3M1 विवादं । 81[3] विचारान्तर० : B3 पुनर्विचारान्तर । 81[3] ०मर्हत्येवेत्याह : B3 मर्हत्येव तदाह । 82[1] ०प्रामाणकं : B1B2 प्रामाणिकं ।

[1]आक्षेप्ता तु न कालं लभते किंत्वाक्षिप्त एव । [2]तदाह कात्यायनः -

84 यस्मात्कार्यसमारम्भश्चिरात्तेन विनिश्चितः ।
तस्मान्न लभते कालमभियुक्तस्तु कालभाक् ॥ [K 134]

[1]नारदः -

85 प्रत्यर्थी लभते कालं त्र्यहं पंचाहमेव वा ॥ [NQ 3.12]

[1]अस्यापवादमाह बृहस्पतिः -

86 अभियोक्ताप्रगल्भत्वाद्वक्तुं नोत्सहते यदि ।
तदा कालः प्रदातव्यः कार्यशक्त्यनुरूपतः ॥ [B 2.34]

[1] इति व्यवहारमुखं ।

[2]स च व्यवहारश्चतुष्पात् । [3]तदाह बृहस्पतिः -

87 भाषापादोत्तरपादौ क्रियापादस्तथैव च ।
प्रत्याकलितपादश्च व्यवहारश्चतुष्पादः ॥ [B 2.1]

- - - - - - - - - - -

---

83 [2]कात्यायनः : B3 नारदः । 86 [2] च : B1 om । 86 [2] व्यवहारश्च :B1 M1 व्यवहारः । 87 °पादश्च : B3 पादस्तु ।

(87) [1] अथ भाषापादः ।

[2] तत्र बृहस्पतिः -

88 प्रतिज्ञादोषनिर्मुक्तं साध्यं सत्कारणान्वितं ।
निश्चितं लोकसिद्धं च पक्षं पक्षविदो विदुः ॥[B 2.14]

89 अल्पाक्षरः प्रभूतार्थो निःसंदिग्धो निराकुलः ।
विरोधिकारणैर्मुक्तो विरोधिप्रतिषेधकः ॥ [B 2.15]

90 यदा त्वेवंविधः पक्षः कल्पितः पूर्ववादिना ।
दद्यात्तत्पक्षसम्बन्धं प्रतिवादी तदोत्तरं ॥ [B 3.1]

[1] साध्यं साध्यस्य सिद्ध्यर्हस्य प्रत्याय्यधर्मविशिष्टस्य धर्मिणो वचनं पक्षं विदुः । [2] तेन स्वमतस्य वचनं पक्षं विदुरित्यर्थः ।
[3] प्रतिज्ञादोषैः प्रतिज्ञाविरोधादिभिरुज्झितं ।
[4] सत्कारणान्वितं अस्फुरद्दोषलिङ्गसम्पन्नं । [5] एवं च त्वं मत्तं शतस्य धारयः मत्त ऋणत्वेन गृहीततावद्धनकत्वादिति भाषाशरीरमुक्तं भवति । [6] अत्र च देहीत्यर्थिताव्यंजकमात्रं न तु भाषान्तर्गतमित्यवधेयं ।
[7] निश्चितं अप्रचलार्थकं । [8] तेन धारयति न वेत्यादिकमपास्तं ।
[9] लोकसिद्धं लोकव्यवहाराविरुद्धार्थकं । [10] एवं च -

91 तृणकाष्ठेष्टकाकिण्वसूत्रचर्मास्थिवर्मणां ।
हेतिपुष्पफलानां च वृद्धिस्तु न निवर्तते [B 10.23]

[1] इति बृहस्पतिवचनमालम्ब्य लोकविरुद्धानन्तवृद्धिप्रार्थनमपि भाषेत्यपास्तं । [2] अत एव बृहस्पतिः -

92 केवलं शास्त्रमाश्रित्य न कर्तव्यो विनिर्णयः ।
युक्तिहीनविचारे तु धर्महानिः प्रजायते ॥ [B 1.114]

[1] युक्तिर्व्यवहारः ।
[2] भवदेवस्तु - [3] यत्र श्रुतमात्र एव लोकानां सम्प्रत्ययस्तल्लोकसिद्धं । [4] तेन

---

87 [2] तत्र बृहस्पतिः : B3 om । 89 °प्रतिषेधकः : B1 प्रतिवन्धकः । 90 °सम्बन्धं : B1B2B3 सम्बद्धं । 90[1] प्रत्याय्य° : LCM2 प्रत्यर्थि । 90 [5] एवं च : LCM2 om । 90 [5] शतस्य धारयः : B2 शतं धारयसि । 90[6] च : B1 om। 90 [6] °व्यंजक° : B1 भिव्यंजक । 90[9] °विरुद्धार्थकं : B1B2 विरुद्धार्थं B3 विरुद्धं । 91 निवर्तते : B1M1 निवर्तत । 91[2] अत एव : M1 तत्रैव । 92 प्रजायते : B3M1 प्रजायते इति । 92 [2] भवदेवस्तु : B3 भवदेवभट्टस्तु । 92[3] सम्प्रत्ययस् : B3 प्रत्ययस् ।

निर्धनकृतो लक्षसंख्यस्वधनप्रयोगाद्दोषो बाधित इत्याह ।
[5]अल्पाक्षर: यावद्भिरक्षरैर्विना विशिष्टहेतुप्रयुक्तसाध्योपहितपक्षप्रतिपादनं न भवति तावन्मात्राक्षरक: ।
[6]प्रभूतार्थ: निरुक्तार्थक एव ।
[7]निराकुल: पौर्वापर्यविपर्यासादिशून्यस्तेन सुबोधो भवति ।
[8]विरोधिकारणै: स्वसाध्यविपरीतव्याप्तैर्हेतुभि: शून्य: ।[9] यथा मद्विभक्तोऽप्ययं अर्जकत्वादिदानीमर्जितं मयि ददात्वित्यादिकं तद्व्यतिरिक्त: सत्पक्ष: । [10]अत्र मद्विभक्तत्वस्य पक्षविशेषणत्वे प्रतिज्ञाविरोधसम्भवे प्रतिज्ञादोषनिर्मुक्तमित्यत्र एवैतल्लाभे इदं प्रपंचनमात्रमिति द्रष्टव्यं ।
[11] विरोधिप्रतिषेधक इति – यावत्प्रकारकमुत्तरं सम्भाव्यं तावत्प्रतिषेधको यथा भवति तथा पक्षनिर्देश: कार्य इत्यर्थ: ।

[12] नारद: –

93 सारस्तु व्यवहाराणां प्रतिज्ञा समुदाहृता ।
तद्धानौ हीयते वादी तरंस्तामुत्तरो भवेत् ॥[NMā 1.6]

[1]प्रतिज्ञा तावत् त्वं मह्यं शतस्य धारय इत्येवंरूपा ।[2] तस्या हानौ अपरिपूरणे हीयते भज्यते तां तरन् परिपूरयन् उत्तर: श्रेष्ठो भवतीत्यर्थ: ।

[3]बृहस्पति: –

94 यं चार्थमभियुंजीत न तं विप्रकृतिं नयेत् ।
न च पक्षान्तरं गच्छेत् गच्छन् पूर्वात्स हीयते ॥[B 2.7]

[1]विप्रकृतिं न्यूनतामधिकतां वा ।[2] यथा शतं धारयसीति भाषित्वा पश्चात् पंचाशतमेव वा सार्धशतं वेति पुनर्भाषणं । [3] पक्षान्तरमिति – शतं सुवर्णान् धारयसीति आदौ भाषित्वा विरम्य पश्चात् गाश्च धारयसीति पक्षान्तरमित्यर्थ: ।
[4]इदं चोत्तरावरोधात् पूर्वमविरुद्धमेव तदनन्तरं तु विरुद्धं –

95 उत्तरेणावरुद्धस्य निवृत्तं लेखनं भवेत् [NQ 2.22cd]

[1]इत्यादिवचनात् ।

92[4] कृतो : B3 कृत । 92[4] °संख्य° : B2 om । 92[5] °हित° : B1B2 हितं । 92[5] °क्षरक: :LCM2 क्षर: । 92[6] प्रभूतार्थ: : B2 प्रभूतार्थो । 92[7] °शून्यस् : B1 दोषरहित: B2 दोषशून्यस् । 92[10] एवैतल्लाभे : B1M1 एवैतल्लाभ B2 तल्लाभे LCM2 एव तल्लाभे । 92[10] इदं : B1 इदं च । 93[2] तस्या : B2B3LM1 तस्य M2 तद् । 94 गच्छेत् : B1M1 गच्छेद् । 94[1] न्यूनतामधिकतां : B2 न्यूनमधिकं ।

[2] तथा -

96 उपस्थिते ततस्तस्मिन् वादी पक्षं प्रकल्पयेत् ।
निरवद्यं सत्प्रतिज्ञं प्रमाणागमसंयुतं ॥ [B 2.5]

97 देशं कालं समां मासं पक्षाहोजातिनाम च ।
द्रव्यसंख्योदयं पीडां क्षमालिङ्गं च लेखयेत् ॥ [B 2.6]

[1] आगमः ऋणादिप्रमाणं साक्षिपत्त्रादिकं । [2] यद्यपि तृतीयपादे पत्त्रादिकीर्तनं तथापि पक्षस्य सम्भावनार्थमिदानीमपि तत्सामान्याकारेण निर्देश्यं । [3] उदयो वृद्धिः । [4] पीडां यद्यहमृणिकस्तदा प्रत्यासत्तौ कुतो न मामयमपीडयदिति तदर्थं पीडितो ऽयं मयेति वाच्यं । [5] अपीडने वा क्षमाहेतुर्वाच्यः ।

[6] कात्यायनः -

98 निवेश्य कालं वर्षं च मासं पक्षं तिथिं तथा ।
वेलां प्रदेशं विषयं स्थानं जात्याकृती वयः ॥ [K 124]

99 साध्यं प्रमाणं द्रव्यं च संख्यां नाम तथात्मनः ।
राज्ञां च क्रमशो नाम निवासं साध्यनाम च ॥ [K 125]

100 क्रमात् पितॄणां नामानि पीडामाहर्तृदापकौ ।
क्षमालिङ्गानि चान्यानि पक्षं संकीर्त्य कल्पयेत् ॥ [K 126]

[1] एतच्च सर्वं विरोध्यन्तरनिराकरणाय वाच्यं । [2] अन्यथा तु प्रतिज्ञाहेतू एव वाच्यौ ।

[3] नारदः -

101 भाषायामुत्तरं यावत् प्रत्यर्थी नाभिलेखयेत् ।
अर्थी तु लेखयेत्तावद्यावन्नोत्तरदर्शनं ॥ [NMS 2.7]

102 अवष्टब्धस्योत्तरेण निवृत्तं लेखनं भवेत् ॥ [NQ 2.22cd]

[1] बृहस्पतिः -

103 ऊनाधिकं पूर्वपक्षं तावद्वादी विशोधयेत् ।
न दद्यादुत्तरं यावत् प्रत्यर्थी सभ्यसंनिधौ ॥ [B 2.22]

97[4] मामयमपीडयद् : B3 मामपीडयद् । 97[4] ऽयं मयेति : B3 यमिति । 98 मासं पक्षं तिथिं तथा :B3 पक्षं मासं तथैव च । 98 प्रदेशं : LCM2 प्रवेशं। 98 स्थानं : B3 मानं । 99 साध्यं प्रमाणं द्रव्यं : LCM2 साध्यप्रमाणद्रव्यं । 100[1] एतच्च : B3 एतत् । 100[2] तु : B3 om । 102 अवष्टब्ध° : B2B3 अवरुद्ध ।

[1] अथ पक्षाभासाः ।

[2] तानाह बृहस्पतिः -

104 अप्रसिद्धं सदोषं च निरर्थं निःप्रयोजनं ।
असाध्यं वा विरुद्धं वा राजा पक्षं विवर्जयेत् ॥ [B 2.8]

105 न केनचित्कृतो यस्तु सोऽप्रसिद्ध उदाहृतः ।
अन्यार्थः स्वार्थहीनश्च सदोषः परिकीर्तितः ॥ [B 2.9]

106 अल्पापराधश्चाल्पार्थो निरर्थक इति स्मृतः ।
कार्यबाधाविहीनश्च विज्ञेयो निःप्रयोजनः ॥ [B 2.10]

107 कुसीदाद्यैः पदैर्हीनो व्यवहारो निरर्थकः ।
वाक्पारुष्यादिमिश्चैव विज्ञेयो निःप्रयोजनः ॥ [B 2.11]

108 ममानेन प्रदातव्यं शशशृङ्गमयं धनुः ।
असम्भाव्यमसाध्यं तु पक्षमाहुर्मनीषिणः ॥ [B 2.12]

109 यस्मिन्नावेदिते पक्षो प्राड्विवाके ऽथ राजनि ।
पुरे राष्ट्रे विरोधः स्याद्विरुद्धः सोऽभिधीयते ॥ [B 2.13]

[1] कुसीदाद्यैश्चतुर्दशभिः । [2] वाक्पारुष्यादिभिरित्यत्र हीन इत्यनुषज्यते।

[3] तथा -

110 पुरराष्ट्रविरुद्धश्च यश्च राजविवर्जितः ।
अनेकपदसंकीर्णः पूर्वपक्षो न सिध्यति ॥ [K 136]

111 बहुप्रतिज्ञं यत्कार्यं व्यवहारेषु निश्चितं ।
कामं तदपि गृह्णीयाद्राजा तत्त्वबुभुत्सया ॥ [K 137]

[1] अनेकपदेति – अनेकक्रियाकव्यवहारविषयमेतत् । [2] तदाह कात्यायनः -

112 न चैकस्मिन् विवादे तु क्रिया स्याद्वादिनोर्द्वयोः ।
न चार्थसिद्धिरुभयोर्न चैकत्र क्रियाद्वयं ॥ [K 190]

[1] इदमपि न हेयं किंतु राज्ञा लेख्यमेव निरूपणमस्य क्रमशः । [2] यत्र तु एकहेतुकैव नानासाध्यसिद्धिस्तत्र क्रमो ऽपि न ।

[3] कात्यायनः -

103[1] अथ : L om । 104 निःप्रयोजनं : M1 निष्प्रयोजनं । 106 °घश्चाल्पार्थो : B2 घस्त्वल्पार्थो । 106 निःप्रयोजनः : B2B3M1 निष्प्रयोजनः । 10 निःप्रयोजनः : B3M1 निष्प्रयोजनः । 110 पुरराष्ट्र° : LCM2 पुरे राष्ट्रे 111 गृह्णीयाद् : LCM2 गृह्णीयात् । 112 चैकत्र : B1 चैकस्मिन् । 112 निरूपणमस्य : M1 निरूपणं सम्यक् । 112[2] क्रमो ऽपि : B3 क्रमेणापि 112[3] कात्यायनः : LCM2 om ।

113 देशकालविहीनश्च द्रव्यसंख्याविवर्जितः ।
साध्यप्रमाणहीनश्च पक्षोऽनादेय इष्यते ॥[K 138]

[1]देशेति - यत्र देशादिभिरेव निर्णयस्तत्रैव तदुपयोगो न तु सर्वत्र । [2]अन्यथा अदृष्टार्थतापत्तेरिति द्रष्टव्यं ।

[3]व्यासः -

114 पाण्डुलेखेन फलके भूमौ वा प्रथमं लिखेत् ।
न्यूनाधिकं च संशोध्य पश्चात् पत्रे निवेशयेत् ॥ [Vy 1.23]

[1]फलकं काष्ठादिपट्टं । [2]तथा च आदौ भाषां भूमौ निवेश्य न्यूनाधिकं संशोध्य पत्रे लिखेत् ।

[3]कात्यायनः -

115 अन्यदुक्तं लिखेदन्यद्यो ऽर्थिप्रत्यर्थिनां वचः ।
चौरवच्छासयेत्तं तु धार्मिकः पृथिवीपतिः ॥ [K 132]

[1]अन्यदिति - अन्यथोक्तं अन्यथा कृत्वा लिखति चौरवद्दण्ड इत्यर्थः ।

[2]इति व्यवहारचिन्तामणौ
भाषापादः ।

- - - - - - - - - -

113[1] यत्र : B1 यत्र च । 114 न्यूना° : B1M1 ऊना । 114 निवेशयेत् : B2 विलेखयेत् । 114[2] च आदौ : B2B3 चादौ । 114[2] भाषां भूम्यादौ निवेश्य : B1 भूम्यादौ भाषां निवेश्य B2B3 भूमौ भाषां निवेश्य पट्टके वा । 115 °प्रत्यर्थिनां वचः : M1 प्रत्यर्थिसन्निधौ । 115[1] लिखति : B1 लेखकः B2M1 लिखितः B3 लिखति यः स । 115[1] दण्ड : B3M1 दण्ड्य LC M2 दण्डनीयः । 115[2] इति : B1B3 om ।

(115) [3]अथोत्तरपाद: ।

[4]तत्र निर्दोषायां भाषायां सत्यां ज्ञाततदर्थेन उत्तरं देयं । [5]तदाह बृहस्पति: -

116 विनिश्चिते पूर्वपक्षे ग्राह्याग्राह्यविशोधिते ।
प्रतिज्ञार्थे स्थिरीकृते लेखयेदुत्तरं तत: ॥ [B 3.2]

[1]विनिश्चिते स्वरूपतो ऽवधारिते ।

[2]याज्ञवल्क्य: -

117 श्रुतार्थस्योत्तरं लेख्यं पूर्वावेदकसंनिधौ ।
ततो ऽर्थी लेखयेत् सद्य: प्रतिज्ञातार्थसाधकं ॥[Y 2.7]

118 तत्सिद्धौ सिद्धिमाप्नोति विपरीतमतो ऽन्यथा ॥ [Y 2.8ab]

[1]यो ऽर्थ: परिशोधितत्वादि: तस्य साधनं साक्ष्यादि । [2] तस्य सिद्धौ उपन्यस्तस्य प्रमाणस्य सिद्धौ निर्वाहिणे । [3] सिद्धिं विजयं । [4] अन्यथा ऽनिर्वाहिणे । [5] विपरीतं अविजयं । [6] मङ्गमिति तु मिताक्षरा । [7] श्रुतार्थस्य भाषावचनस्य । [8] पूर्वावेदको भाषिता । [9] अर्थी प्रतिवादी । [10] प्रतिज्ञात: प्रत्यर्थिप्रतिज्ञात: । [11] सद्य: उत्तरलिखनानन्तरं ।

[12]कात्यायन: -

119 श्रुत्वा लेखयतो ह्यर्थं प्रत्यर्थी कारणाद्यदि ।
कालं विवादे याचेत तस्य देयो न संशय: ॥ [K 145]

120 सद्यो वैकाहपंचाहौ त्र्यहं वा गुरुलाघवात् ।
लभेतासौ त्रिपक्षं वा सप्ताहं वा ऋणादिषु ॥[K 146]

[1] अत्र व्यवस्थामाह स एव -

121 सद्य: कृते सद्यो वाद: समातीते दिनं क्षिपेत् ।
षडाब्दिके त्रिरात्रं तु सप्ताहं द्वादशाब्दिके ॥ [K 154]

122 विंशत्यब्दे दशाहं तु मासार्धं वा लभेत स: ।
मासं त्रिंशत्समातीते त्रिपक्षं परतो लभेत् ॥ [155]

123 कालं शक्तिं विदित्वा तु कार्याणां च बलाबलं ।
अल्पं वा बहुकालं वा दद्यात्प्रत्यर्थिने प्रभु: ॥[K 147]

[1] प्रभुरिह विचारक: ।

115[4] ०र्थेन उत्तरं : B1B2 र्थेनोत्तरं । 118[2] प्रमाणस्य : LCM2 प्रमाण ।

[2]बृहस्पतिः -

124 एकाहत्र्यहपंचाहसप्ताहं पक्षमेव वा ।
मासं ऋतुत्रयं वापि लभते शक्त्यपेक्षया ॥[B 3.4]

[1]सद्योविषयं कियन्तमप्याह याज्ञवल्क्यः -

125 साहसस्तेयपारुष्यगोऽभिशापात्यये स्त्रियां ।
विवादयेत् सद्य एव कालोऽन्यत्रेच्छया स्मृतः ॥[Y 2.12]

[1]गौरत्र दोग्ध्री । [2] गोत्वमुपलक्षणं - [3]यत्र कालात्ययेन भोगादिक्षति-स्तत्परं । [4] अत्यये मरणे सम्भाव्यमाने । [5]स्त्रियां कुलस्त्रियां चारित्र्य-विवादे दास्यां वा स्वत्वविवादे ।

[6]इदं च सप्तग्रहणमुपलक्षणं - [7]यत्र कालातिपाते प्रतिकूलं तत्परं । [8] त-दाह कात्यायनः -

126 व्यपैति गौरवं यत्र विनाशस्त्याग एव वा ।
कालं तत्र न कुर्यात्तु कार्यमात्ययिकं हि तत् ॥ [K 139]

[1] अन्यत्र ऋणादौ । [2] तदाह नारदः -

127 गहनत्वाद्विवादानामसामर्थ्यात्स्मृतेरपि ।
ऋणादिषु हरेत्कालं कामं तत्त्वबुभुत्सया ॥[NMā 1.44]

[1]याज्ञवल्कीयमपीच्छापदं तत्त्वबुभुत्सापरमेव ।
[2]हरेत् हारयेत् । [3] विचारक इति शेषः ।

[4]व्यासः -

128 राजदैवकृतो दोषस्तस्मिन् काले यदा भवेत् ।
अवधित्यागमात्रेण न भवेत्स पराजितः ॥ [Vy ?]

129 राजदैवकृतं दोषं साक्षिभिः प्रतिपादयेत् ।
जैह्म्येन वर्तमानस्तु दण्ड्यो दाप्यश्च तद्धनं ॥ [Vy ?]

[1]अवध्यतिक्रमहेतौ राजदैवकस्य प्रमितौ न तदतिक्रामकोऽपराध्यति ।
[2]जैह्म्यात्तु तदतिक्रामन् दण्ड्यश्च भङ्गी च भवतीत्यर्थः ।

[3]कात्यायनः -

130 अभियुक्तोऽभियोक्तारं नाभियुंजीत कर्हिचित् ।
अन्यत्र दण्डपारुष्यस्तेयसंग्रहणात्ययात् ॥ [K 163]

[1]दण्डादिषु पंचस्वपि ममाप्यनेन दण्डपारुष्यादिकं कृतमित्यभियोगो

---

127 °वादानामसाम° : B3 वादस्य असाम । 129[2] दण्ड्यश्च : B1 दण्ड्यः LCM2 दण्ड्यो ।

दातव्य एव, [2]तथैवाभियोगनिस्तारात् ।

[3] याज्ञवल्क्यः –

131 अभियोगमनिस्तीर्य नैनं प्रत्यभियोजयेत् ।
अभियुक्तं न चान्येन नोक्तं विप्रकृतिं नयेत् ॥[Y 2.9]

132 कुर्यात्प्रत्यभियोगं च कलहे साहसेषु च ॥[Y 2.10ab]

[1]अन्येनाभियुक्तं नाभियुंजीत । [2] विप्रकृतिमिति आवेदनकाले ऽन्यथा लेखयित्वा भाषाकाले नान्यथा लेखयेदित्यर्थिषूपदेशद्वयं ।

[3]नारदः –

133 पक्षस्य व्यापकं सारमसंदिग्धमनाकुलं ।
अव्याख्यागम्यमित्येतदुत्तरं तद्विदो विदुः ॥ [NQ 3.2]

[1]पक्षस्य भाषितहेतोर्व्यापकमाच्छादकं । [2] तदुक्तं –

134 पूर्वपक्षार्थसम्बन्धं प्रतिपक्षं निवेशयेदिति ।[NMā 2.2cd = K 159cd]

[1]सारं प्रकृताभियोगि ।[2] असंदिग्धं उच्यमानं सत् निश्चीयमानं। [3] अनाकुलं पूर्वापरविरोधरहितं । [4] अव्याख्यागम्यं अध्याहारादिकं विनैव प्रतीतं । [5]यद्यपि सम्प्रतिपत्तिरज्ञानादिकं च उत्तरं न भाषितहेत्वाच्छादकं तथापि तदभिसंधिना प्रयुक्तमेवेति द्रष्टव्यं । [6]अत एव उत्तीर्यते निस्तीर्यते प्रकृताभियोगो ऽनेनेत्युत्तरमिति प्राचः । [7] नव्यास्तु – [8]पक्षस्य स्वप्रतिज्ञातस्याधार्यमाणत्वादेर्व्यापकं साधकमित्याहुः । [9]पक्षस्य धार्यमाणत्वे साध्ये पक्षीकृतस्य शतस्य व्यापकमभिव्यापकं । [10] तथा चाधमत्रागृहीतमर्धं च परिशोधितमित्यपि मिथ्याकारणघटितमुत्तरं पक्षाभिव्यापकत्वात् संगृहत एवेत्यन्ये ।

[11]अत्र चैतादृशार्थकं वचनमुत्तरं ।

[12]तदेवार्थचातुर्विध्येन विभजते कात्यायनः –

135 सत्यं मिथ्योत्तरं चैव प्रत्यवस्कन्दनं तथा ।
पूर्वन्यायविधिश्चैव उत्तरं स्याच्चतुर्विधं ॥[K 165]

[1]व्यासः –

136 साध्यस्य सत्यवचनं प्रतिपत्तिरुदाहृता ।
कारणं स्यादवस्कन्दो मिथ्या स्यात् साध्यनिह्नुतिः ॥[Vy 1.24]

---

132 कलहे : B3 संग्रहे । 133 °त्येतद् : M1 त्येतत् । 134 °सम्बन्धं : B1B2 B3 सम्बद्धं । 134[6] निस्तीर्यते : B1LCM2om । 134[10] चार्ध° : B2B3अर्धे ।

[1]साध्यस्य भाषितस्य सहेतुसाध्यस्य कण्ठतोऽर्थतो वा निह्नवो मिथ्योत्तरं । [2]केवलसाध्यनिह्नवस्तु सम्प्रतिपत्तिभिन्नेषु त्रिष्वप्युत्तरेषु समान इति द्रष्टव्यं ।

[3]बृहस्पतिः -

137 मिथ्यायां च चतुष्पादः प्रत्यवस्कन्दने तथा ।
प्राङ्न्याये च स विज्ञेयो द्विपात्सम्प्रतिपत्तिषु ॥[B 2.3]

[1] अथ सम्प्रतिपत्तिः ।

138 अनुक्त्वा कारणं यत्र पक्षं वादी प्रपद्यते ।
प्रतिपत्तिस्तु सा ज्ञेया कारणे दूषणं पृथक् ॥[B 3.14]

[1]कारणं परहेतुदूषणकारणं । [2]वादी प्रत्यर्थी । [3]कारणे कारणोत्तरे पृथक् दूषणं भवेदित्यर्थः ।

[4]सम्प्रतिपत्तिश्च सिद्धसाधनमापादयन्ती सदुत्तरं । [5]न चैवं भाषितुर्निग्रहः, [6]विचारस्यास्य तत्त्वनिर्णयार्थकत्वात् । [7]तत्र च सिद्धसाधनस्यादोषत्वादिति ।

[8]अत्र च न क्रियापादो नापि जयपराजयावधारणलक्षणप्रत्याकलितपाद इति द्विपादेव व्यवहारस्[9]तत्सूक्तं - [10]द्विपात् सम्प्रतिपत्तिष्विति ।

[11] अथ मिथ्योत्तरं ।

[12]तत्र कात्यायनः -

139 अभियुक्तोऽभियोगस्य यदि कुर्यादपह्नवं ।
मिथ्या तत्तु विजानीयादुत्तरं व्यवहारतः ॥ [K 167]

[1]अभियोगो हेतुर्गृहीतत्वादिः । [2]तेन हेत्वपलाप एव मिथ्योत्तरमिति सारं ।

[3]व्यासः -

136[1] सहेतु° : B1B2 सहेतुक । 136[2] °भिन्नेषु : B1 भिन्नेष्वेव । 138[3] पृथक् : B3 पृथग् । 138[4] °पत्तिश्च : B3 पत्तिः । 138[5] भाषितु°: B3 भाषितहेतु । 138[6] तत्त्व° : B1 om. 138[7] °दोषत्वादिति : B3 दोषत्वात् । 138[9] तत्सूक्तं : B2L तदुक्तं । 139[1] अभियोगो : B1 अभियोगो अभियोग ।

140 मिथ्यैतन्नाभिजानामि मम तत्र न संनिधिः ।
अजातश्चास्मि तत्काल इति मिथ्या चतुर्विधा ॥ [Vy 1.28]

[1] अत्र मिथ्यैतदिति कण्ठतो, न जानामीत्यादिकं त्रिकमर्थतो ऽपह्नवः ।
[2] तदाह कात्यायनो ऽपि -

141 श्रुत्वा भाषार्थमन्यस्तु यदि तं प्रतिषेधति ।
अर्थतः शब्दतो वापि मिथ्या तज्ज्ञेयमुत्तरं ॥ [K 166]

[1] भाषार्थं सहेतुसाध्यं । [2] अत्र च साध्यापह्नवोक्तिरुत्तरान्तरव्यवच्छेद-द्वारा मिथ्योत्तरलक्षणोपयुक्ता । [3] हेत्वपह्नव एव तु स्वरूपासिद्धिर्नाम स्थापनादोष इति विवेक्तव्यं ।

[4] तत्र गृहीतत्वात् त्वं धारयसीति भाषायां मया न गृहीतमिति शब्द-तः । [5] कालविशेषगर्भायां तस्यां तदा नाहं जात इत्यर्थतः । [6] देशकाल-विशेषगर्भायां तस्यां तदा तत्र नाहमासमित्यर्थतः । [7] देशादिमत्त्यां त-च्छून्यायां वा तस्यां न जानामीत्यर्थत एव, [8]योग्यास्मरणेनार्थतस्तद-ग्रहणप्रतिपादनात् । [9] अत्र च चरमत्रयं ग्रहणास्कन्दमुखेन ग्रहणाभावप्रति-पादकं सापदेशमिथ्योत्तरमित्युच्यते । [10] आद्यं मिथ्योत्तरमात्रं । [11] न जानामीति तु सापदेशमिथ्योत्तरमभिमामात्रात् । [12] शेषं तु द्वयं व्या-प्ततया सम्यक् ।

[13] न चैवं समीचोर्ग्रहणास्कन्दकयोरसंनिधानाजन्मनोरेव प्रतिपाद्यता स्या-दिति वाच्यं । [14] तस्याभावरूपतया ग्रहणापेक्षया प्रतिपादनगौरवात् । [15] ताभ्यां चाग्रहणस्य व्यापकानुपलब्ध्या प्रत्यायने ऽपि गौरवात् । [16] तत्प्रत्यायनाशक्तावपि संशयतादवस्थ्याच्च । [17] न हि तदा जातस्तत्र सन् गृह्णात्येवेति नियमः । [18] धर्मव्यवहारे च च्छलमवश्यनिरस्यं । [19] तस्माच्चतुर्ष्वपि मिथ्योत्तरेषु स्थापकेनैव दृष्टन ग्रहणं प्रमापणीय-मिति ।

[20] यत्तु पित्रादिगृहीतत्वभाषायां तद्ग्रहणाधिकरणत्वेनाभिमतकालापे-क्षया चरमजातस्य तत्पुत्रस्य न जानामीत्यादिकमुत्तरं तदुत्तरप्रतिरूपकं,

---

140 तत्काल : B1 तत्काले ।140 चतुर्विधा : B1M1 चतुर्विधं । 140[2] का-त्यायनो ऽपि : B2B3L कात्यायनः ।141[2] साध्यापह्नवोक्तिरुत्तरान्तर° : LCM2 साध्यव्याप्ति । 141[7] °र्थत एव : LCM2 र्थतः । 141[9] ग्रहणास्क-न्द° : B1(msh)B2 ग्रहणावस्कन्द । 141[12] द्वयं : LCM2 om । 141[17] तत्र : B1 तत्र च । 141[18] °निरस्यं : LCM2 निवेद्यं ।

21 अर्थतो ऽपि स्थापितहेत्वपह्नवासम्भवात् ।

22 न चैवं उत्तराभावादेव तत्र स्थापकस्य जय इति वाच्यं। 23 धर्मव्यवहारे च्छलस्यावश्यनिरस्यत्वेन तत्र स्थापकेन ग्रहणस्यावश्यप्रमापणीयत्वात् । 24 अत एव प्रकाशक्रये नाष्टिकेनादत्तत्वादिकमपि प्रमापणीयमिति स्मरन्ति। 25 अन्यथा दत्तत्वादेर्दूषकेनानुक्तत्वाददत्तत्वादिप्रतिपादनं तत्राधिकं स्यात् । 26 तेन च दत्तत्वाद्यभिधाने तेनैव च तत्प्रतिपाद्यमित्यपि स्यात् 27 नाष्टिकोक्ततत्स्वत्वाधास्कन्दकत्वाद्दत्तत्वादेरिति ।

28 कारणोत्तरं चापरं ।

29 कारणं स्थापकसाध्यस्य धार्यमाणत्वस्य ध्वंसकारणं निर्यातनादि तद्रूपं। 30 अत एव मिथ्योत्तरादस्य भेदः। 31 तद्धि धार्यमाणत्वस्याभावप्रयोजकमग्रहणं न तु ध्वंसकं कदाप्यधारितत्वात् ।32 अत एव प्राङ्न्यायादस्य भेदः ।33 प्राङ्न्यायो हि धार्यमाणत्वसामान्याभावज्ञापक इति ।

34 एतच्च त्रिविधं - 35 पूर्ववाद्युक्तहेत्वपेक्षया अधिकबलं समबलं दुर्बलं च ।

36 तत्राद्यं प्रत्यवस्कन्दनं । 37 तदाह बृहस्पतिः -

142 अर्थिनाभिहितो यो ऽर्थः प्रत्यर्थी यदि तं तथा ।
प्रपद्य कारणं ब्रूयात् प्रत्यवस्कन्दनं हि तत् ॥ [B 3.19]

1 अर्थिनोक्तं गृहीतत्वहेतुं सत्यमित्यभ्युपगम्य यदीदानीमधार्यमाणत्वे परिशोधितत्वादिकं कारणं ब्रूयात् तदुत्तरं प्रत्यवस्कन्दनं भवतीत्यर्थः । 2 यथा मया त्वत्तः शतं गृहीतमिति सत्यं किंतु परिशोधितमिति । 3 इदं च - त्वं मलमिदानीं शतस्य धारयः मत्तः प्रतिदेयतया गृहीततावद्धनत्वादिति भाषायां निर्यातनस्थले व्यभिचारवारणायापरिशोधितत्वे सतीति हेतौ विशेषणं स्थापकस्य हृदिस्थं तस्य चासिद्धिरुत्तरवाक्यार्थः । 4 तथा च हेतुविशेषणासिद्धिपरमिदं कारणोत्तरं ।

5 कात्यायनो ऽपि -

143 अर्थिनाभिहितो यो ऽर्थः प्रत्यर्थी यदि तं तथा ।

141[22] °भावादेव : LCM2 भावादेः । 141[23] °निरस्यत्वेन : LCM2 निवेद्यत्वेन । 141[27] °स्वत्वाधास्कन्दक° : B1 स्वत्वा(व msh)स्कन्दक B2 स्वत्वाधवस्कन्दक । 141[33] °ज्ञापक : M1 ज्ञापनार्थक । 142[1] तदुत्तरं : B1M1 तदा तदुत्तरं । 142[5] कात्यायनो ऽपि : B1 कात्यायनेनापि ।

प्रपद्य कारणं ब्रूयादाधर्यं भृगुरब्रवीत् ॥[K 170]

[1] आधर्यं दुर्बलत्वं । [2] पूर्वपक्षस्येति शेषः । [3] नारदः -

144 आधर्यं पूर्वपक्षस्य यस्मिन्नर्थवशाद् भवेत् ।
विवादे साक्षिणस्तत्र प्रष्टव्याः प्रतिवादिनः ॥[N 1.164]

[1] प्रदीपकृतस्तु - [2] कारणं धार्यमाणत्वे कारणं गृहीतत्वं तत् प्रपद्याभ्युपेत्य ब्रूयात् परिशोधनादिकमिति शेषः इत्येवं क्रमेण योजनामर्थादाहुः । [3] अपरिशोधितत्वं च स्थापनाहेतुविशेषणं कण्ठरवेणोक्तमिति चाहुः ।

[4] केचित्तु - [5] प्रपद्य स्थापनाहेतुं प्रतीत्य यद्विपरीतवचनं तत्कारणोत्तरमिति त्रितयपरमेवेदं वाक्यमित्याहुः । [6] तन्न - समहीनबलकारणोत्तरयोः स्थापनाया आधर्यासम्भवे न एतद्वाक्यस्य तदुभयविषयकत्वादिति । [7] वस्तुतस्तु - तद्धनं मत्साधारणं मदविभक्तत्वदर्जितत्वादित्यत्र नैतदेवं त्वद्विभक्तमदर्जितत्वादित्यत्र बलवत्कारणोत्तरे कण्ठोक्तस्याविभक्तत्वस्य खण्डनात् अभियोगध्वंसस्य चाजननान्न प्राचीना व्याख्या किंतु प्रपद्याभ्युपेत्य भाषितहेतुं विशेष्यभागमात्रं कारणमनभियोज्यताप्रयोजकरूपं विभक्तत्वनिर्यातितत्वादि यद् ब्रूते तद् बलवत्कारणोत्तरमिति व्याख्या ज्यायसीति ।

[8] समबलं तु - मदीयेयं भूः क्रमागतत्वादिति भाषायामिदमेवोत्तरं । [9] इदं च सत्प्रतिपक्षत्वपरं ।

[10] दुर्बलोत्तरं तु - विंशतिवर्षादारभ्य ममेयमाधिविषया भूः तावत्समयादारभ्य स्वामिना मय्याहितत्वादिति भाषायां पंचवर्षादारभ्य सा मदीया पंचमेऽब्दे तेन मय्याहितत्वादिति। [11] इदमपि सत्प्रतिपक्षत्वपरं।

145 आधौ प्रतिग्रहे क्रीते पूर्वं बलवत्तरेति [Y 2.23cd]

[1] वचनप्रामाण्याच्च दुर्बलं ।

[2] अत्र च बलवति प्रतिवादिनः अन्त्ययोस्तु स्थापकस्य प्रमाणमनुसंधेयं ।

144[3] कण्ठरवेणोक्त° : B1M1 कण्ठरवोक्त । 144[6] न एतद्वा° : B1 नैतद्वा । 144[7] तद्धनं : B1 त्वद्धनं । 144[7] °त्वादि : B1 त्वादिकं । 144[8] °मिदमेवोत्तरं : B3 मेतदेव उत्तरं । 144[8] °पक्ष° : B3LCM2 पक्षित । 144[10] स्वमिना : B3 तत्स्वामिना । 144[12] °पक्ष° : LCM2 पक्षित । 145[2] प्रमाण° : B2 प्रामाण्य ।

[3]तदुक्तं -

146 गुरावभिहिते हेतौ प्रतिवादिक्रिया भवेत् ।
दुर्बले वादिनः प्रोक्ता तुल्ये पूर्वक्रियैव चेति ॥ [?]

[1]पूर्वेति पूर्वोत्तरयोः साक्षिसाम्ये एवं ।

[2]कात्यायनः -

147 कारणात्पूर्वपक्षो ऽपि उत्तरत्वं प्रपद्यते ।
अतः क्रिया सदा प्रोक्ता पूर्वपक्षप्रसाधिनी ॥ [K 211]

[1]कारणात् बलवत्त्वात् ।[2] उत्तरत्वं उत्तमत्वं ।

[3]प्राङ्न्यायोत्तरं तु - अस्मिन्नर्थे मयायं पूर्वं जित इति रूपं । [4]यदाह बृहस्पतिः -

148 आचारेणावसन्नो ऽपि पुनर्लेखयते यदि ।
सो ऽभिधेयो जितः पूर्वं प्राङ्न्यायस्तु स उच्यते ॥[B 3.21]

[1]आचारेण व्यवहारेण । [2]अवसन्नो भङ्गी । [3]लेखयते भाषां ।

[4]अत्र चोत्तरवादिन एव क्रिया [5]तेनैव पूर्वजयस्य विभावनीयत्वात् । [6]तथा च हारीतः -

149 प्राङ्न्यायकारणोक्तौ तु प्रत्यर्थी निर्दिशेत् क्रियां ।
मिथ्योक्तौ पूर्ववादी तु प्रतिपत्तौ न सा भवेत् ॥[H 1.29]

[1]कारणोक्तौ बलवत्कारणोक्तौ ।

[2]अत्र च प्राङ्न्याये बलवत्पूर्वप्रमाणबाधः स्थापनाहेतुदोषः । [3]निर्णीतत्वेन संशयाभावादसिद्धिरित्यन्ये ।

[4]अथोत्तराभासाः ।

[5]तत्र कात्यायनः -

150 पक्षैकदेशे यत्सत्यमेकदेशे च कारणं ।
मिथ्या चैवैकदेशे स्यात् संकरात्तदनुत्तरं ॥[K 189]

---

146 चेति : B1 हि B2 च LCM2 च इति ।147 °प्रसाधिनी : LCM2 प्रसाधनी । 147[3] पूर्वं : B1M1 पूर्वं । 148[4] अत्र चोत्तर° : B2 अत्रोत्तर । 149 °न्याय° : B2B3 न्याये । 149 तु : B2B3 च । 149[2] °दोषः : LCM2 दोषश्च । 149[3] निर्णीत° : B3 निर्णीतार्थ। 149[3] °त्यन्ये : M1 त्यर्थः।

[1] अत्र केचित् – [2]यथा शतग्रहणे भाषिते पंचाशतं धारयाम्येव पंचविंशतिः परिशोधिताः पंचविंशतिर्न गृहीता इत्याद्युदाहरणं । [3]अत्र च कात्यायनवचनं बीजं । [4]तथा हि –

151 न चैकस्मिन् विवादे तु क्रिया स्याद्वादिनोर्द्वयोः ।
न चार्थसिद्धिरुभयोर्न चैकस्मिन् क्रियाद्वयमिति ॥ [K 190]

[1] एकत्र द्वयोर्वादिनोर्न क्रिया द्वयी च न क्रिया द्वयोश्च न जय इति वाक्यार्थः । [2]यथोक्तसंकीर्णोत्तरस्य च ग्राह्यत्वे तत्सर्वं प्रसज्येतेत्याहुः ।
[3] तन्मन्दं – [4]न हीदृशो विषय एव न सम्भवति [5]बहुशो दर्शनात् । [6] न चेदृशमुत्तरं न देयं [7]यथावस्थितार्थोत्तरदानस्य निषेद्धुमशक्यत्वात् ।
[8] न च सकल एवाक्षेपे मिथ्योत्तरमेव कार्यं शतस्यागृहीतत्वादिति वाच्यं ।
[9] न हि विज्ञा एव विवदन्ते किंत्वज्ञा अपि । [10] न च त इत एव पर्यनुयोज्याः किंतु तत्त्वतो निरूप्याः –

152 छलं निरस्य भूतेन व्यवहारान्नयेन्नृपः [Y 2.19ab]

[1] इत्यादिवचनात् ।
[2] किंच – न सदुत्तरान्तरमत्र सम्भवतीत्यत एवास्य हेयता । [3] उपायस्योपायान्तरादूषकत्वात् । [4] न च वचनादेवास्य हेयता, [5]एतद्वचनस्यादृष्टार्थतापत्तेः ।
[6] अपि च – शतं न गृहीतमित्यस्य नाग्रहणमात्रमर्थः [7]शतपदानर्थक्यापत्तेः । [8]नापि शताग्रहणं [9]विशेषनिषेधे शेषाभ्यनुज्ञापत्तेः । [10]नापि शतपदं यद्वाप्राप्तानुवाद [11] एवमेकदेशस्य गृहीतस्य गृहीतत्वविभावनादेव स्थापको निरपवादमेव तावद्धनं लभेतेत्यनिष्टफलकमुत्तरं स्यात् ।
[12] तस्मादेकदेशे एकस्मिन्नेव देशे यदुत्तरं संकीर्यते तदनुत्तरं शेषं एकदेशपदद्वयं चानुवादः । [13] तथा हि मया शतं न गृहीतं गृहीतं वा परिशोधितं धारयाम्येवेत्यादि ।

[14] यत्तु भिन्नभिन्नावच्छेदेन कारणादिस्पर्शि तत्सदुत्तरमेव [15]अवच्छेदभेदेन साङ्कर्यस्यैवाभावात् । [16] अत्रैव हारीतेनापि मीमांसितं –

150[2] इत्याद्युदा° : B2M1L इत्युदा । 150 [3] च : B2LCM2 om । 150 [4] तथा हि : B2 om । 151[2] च : B2 om । 151[2] प्रसज्येते° : B1 प्रसजेते । 151[7] °स्थितार्थो° : B1 स्थितो । 151[10] त : LCM2 om । 152[4] वचनादेवा° : M1 वचनबलादेवा । 152[7] शतपदा° : LCM2 तत्पदा । 152[13] शतं : B1 मया शतं । 152[13] शतं ... °वेत्यादि : LCM2 शतं धारयामि परिशोधितं न गृहीतं वेत्यादि । 152[15] अवच्छेद° : LCM2 अवच्छेदक ।

153 मिथ्योत्तरं कारणं च स्यातामेकत्र चेदुभे ।
सत्यं चापि सहानेन तत्र ग्राह्यं किमुत्तरं ॥ [H 1.23]

154 यत्प्रभूतार्थविषयं यत्र वा स्यात् क्रियाफलं ।
उत्तरं तत्तु विज्ञेयमसंकीर्णमतो ऽन्यथा ॥ [H 1.24abcd]

[1]यदिति - प्रचुरार्थविषयकमुत्तरांशमादाय विचार उपक्रमणीयः । [2]तुल्यार्थविषयत्वे तु यत्र क्रियाया भुक्त्यादेः फलं निर्णयः शीघ्रं भवति तदंशस्यैव प्रमाणं ग्राह्यं । [3]तदुक्तं - [4]यत्र वा स्यात् क्रियाफलमिति । [5]इदं चोत्तरमसंकीर्णमेव । [6]यत्त्वितो ऽन्यथा तत्संकीर्णं हेयमिति । [7]तदयं वर्तुलार्थः - [8]शताभियोगे पंचाशत् परिशोधिताः पंचविंशतिर्धार्यन्ते पंचविंशतिस्तु नैव गृहीता इत्युत्तरे कारणभाग आदौ विचार्यः । [9]पश्चात्तु अपह्नुताः पंचविंशतिरपि अर्थिप्रमाणेन वा साध्याः प्रत्यर्थिप्रमाणेन वा बाध्याः ।

[10]न चैवं सत्येतद्वचनविरोध एव । [11]न्यायवचनानामुत्सर्गतो न्यायमूलकत्वेनैव तद्वचनस्यापि लघ्वर्थप्रमाणपरिग्रहाबाधकत्वात् ।[12] सति निर्णयप्रमाणे च तदंशे ऽपि प्रकरणारम्भकसंशयस्यावश्यनिरस्यत्वात् । [13]न च यत्प्रभूतार्थविषयमित्यादिवचनवशादेव लघ्वर्थप्रमाणाग्राह्यता, [14]तथा सत्येतत्स्मृतीनां श्रुतिमूलतापत्तेः । [15]न चैतदिष्टमेव, [16]असम्भवन्मूलान्तरत्वस्य तत्रोपाधित्वात् । [17]यूपहस्त्यादिस्मृतौ तथा सिद्धान्तत्वात्। [18]आसां च न्यायमूलकत्वस्यैव सम्भवात् ।

155 मिथ्याकारणसम्भेदे ग्राह्यं कारणमुत्तर- [H 1.24ef]

[1]मित्यादिकमपि वचनमेवमेव नेयं ।
[2]तस्मात् यावत् प्रकरणारम्भकसंशयो ऽनुवर्तते निर्णायकं च प्रमाणं लभ्यते तावद्विचारणीयमिति परमार्थः ।
[3]भवदेवप्रदीपादयो ऽप्येवं ।

[4]कात्यायनः -

154[1] प्रचुरा° : CM2 प्रभूता । 154[1] प्रचुरार्थ° ... रांशमादाय : B1 प्रचुरांशमादाय । 154[2] तुल्यार्थविषयत्वे : B1 तुल्यार्थकत्वे । 154[6] यत्त्वितो : M1 यद्यतो । 154[8] °विंशतिस्तुनैव : B1 विंशतिर्नैव B2 विंशतिस्तु न । 154[9] प्रत्यर्थि° ... बाध्याः : LCM2 om । 154[13] °वशादेव : B1B2 वलादेव । 155[1] °त्यादिकमपि वचनमेवमेव : B1 त्यादिवचनमप्येवमेव ।

156 प्रकृतेन त्वसम्बद्धमत्यल्पमतिभूरि च ।
पक्षैकदेशव्याप्येव तत्तु नैवोत्तरं भवेत् ॥ [K 188]

157 असम्बद्धपदव्यापि निगूढार्थं तथाकुलं ।
व्याख्यागम्यमसारं च नोत्तरं शस्यते बुधैः ॥ [K 174]

[1]प्रकृतेन प्रकृतभाषया । [2]अत्यल्पं प्रतिज्ञामात्रं न धारयामीत्यादि । [3]अतिभूरि बहुहेतुकं । [4]पक्षैकदेशव्यापि भाषैकदेशाच्छादकं । [5]असम्बद्धपदव्यापि अनन्वितार्थकपदव्याप्तं । [6]निगूढार्थमप्रसिद्धार्थं । [7]आकुलं परस्परविरुद्धार्थकं । [8]व्याख्यागम्यं लक्षणादिना विवक्षितार्थबोधकं । [9]असारं जात्युत्तरं ।

[10]तथा -

158 प्रपद्य कारणं पूर्वमन्यद् गुरुतरं यदि ।
प्रतिवाक्यगतं ब्रूयात् साध्यते तद्धि नेतरत् ॥ [K 191]

[1]आदौ लघुकारणमभिधाय पश्चाद्बलवत्तदभिदधतस्तावद्बलवदेव ग्राह्यं तत्त्वनिर्णयार्थमित्यर्थः ।

[2]बृहस्पतिः -

159 पूर्वपक्षे यथार्थं तु न दद्यादुत्तरं तु यः ।
प्रत्यर्थी दापनीयः स्यात् सामादिभिरुपक्रमैः ॥ [B 3.7]

160 प्रियपूर्वं वचः साम भेदस्तु भयदर्शनं ।
अर्थापकर्षणं दण्डस्ताडनं बन्धनं तथा ॥ [B 3.8]

161 उपायैर्देश्यमानस्तु न दद्यादुत्तरं तु यः ।
अतिक्रान्ते सप्तरात्रे जितोऽसौ दण्डमर्हति ॥ [B 2.4]

162 उन्मत्तमत्तनिर्धूता महापातकदूषिताः ।
जडातिक्रुद्धबालाश्च विज्ञेयास्ते निरुत्तराः ॥ [B 1.173]

[1]पूर्वपक्ष इति - उत्तरदानशक्तः सन् सामादिनापि पृष्टो यः सप्तरात्रपर्यन्तेनापि नोत्तरं ददाति स भङ्गी व्यवहर्तव्यः । [2]उन्मत्तादयस्तु स्वज्ञपरद्वारेणोत्तरं दापयितव्या इत्यर्थः ।

[3]तथा -

---

156 ०सम्बद्ध०: M1 सम्बन्ध । 156 च : CM2 यत् । 156 ०देश० : M1 देशै।
157 शस्यते : M1 गम्यते । 162[1] सामादिनापि : B1B2 सामादिना ।

163 उभयोर्लिखिते कार्ये प्रारब्धे तत्त्वनिर्णये ।
अयुक्तं तत्र यो ब्रूयात् स तदर्थात्तु हीयते ॥ [B? = K 206cdef]

164 पूर्वोत्तरे निविष्टे तु विचारे सम्प्रवेशिते । [B 3.42ab]
निर्णिक्तं तु तयोस्तत्र वचनं वादिनोर्भृगुः ॥ [B?]

165 मोहाद्वा यदि वा शाठ्यात् यन्नोक्तं पूर्ववादिना ।
उत्तरान्तर्गतं वापि तद् ग्राह्यमुभयोरपि ॥ [B 2.17 = K 193]

166 श्रुतं च लिखितं चैव चिन्तितं तु विशोधितं । [B 2.29cd]
प्रथमे ऽहनि तस्यैव विवादविधिरुच्यते ॥ [B?]

[1] पूर्वोत्तरे भाषायामुत्तरे च संवृत्ते विचारे प्रारब्धे वादिनोर्वचनं नि-र्णिक्तं शाधितं ग्राह्यं ।[2] तदेव प्रपंचयति - [3]मोहादित्यादि । [4]शाठ्यं तात्कालिकवाक्स्तम्भादि । [5]एवं च विचारप्रवृत्तिपर्यन्तं भाषोत्तरयोः शोधने सिद्धे

167 प्रतिज्ञां पूरयेद्वादी यावन्नोत्तरदर्शन- [NQ 2.22ab]
[1] मित्यत्राप्युत्तरपदं विचारारम्भपरमिति द्रष्टव्यं ।

[2] इति व्यवहारचिन्तामणौ
उत्तरपादः ।

- - - - - - - - - -

---

163 तदर्थात्तु : LCM2 तदर्थाच्च । 166 विशोधितं : B1 विशोधनं । 166[1] संवृत्ते : LCM2 सम्प्रवृत्ते । 167[2] व्यवहारचिन्तामणौ : LCM2 om ।

(167) [3] अथ क्रियापादः ।

[4] तत्रोत्तराभासे क्रियानपेक्षा एव भङ्गः । [5] सदुत्तरे तु क्रिया देया ।
[6] तत्र याज्ञवल्क्यः -

168 ततोऽर्थी लेखयेत्सद्यः प्रतिज्ञातार्थसाधकं । [Y 2.7cd]
तत्सिद्धौ सिद्धिमाप्नोति विपरीतमतोऽन्यथा ॥ [Y 2.8ab]

[1] अर्थी वादी प्रतिवादी च । [2] सद्य इति - तेन प्रमाणनिर्देशे प्रमाणप्रवर्तने च न कालातिपातः कार्य इत्यर्थः । [3] तदाह कात्यायनः -

169 न कालहरणं कार्यं राज्ञा साक्षिप्रभाषणे ।
महान् दोषो भवेत्कालाद्धर्मव्यावृत्तिलक्षणः ॥ [K 339]

[1] साक्षिणामुपन्यासे निगादने च विलम्बो न कार्योऽन्यथा साक्षिकरणसाक्षिसंधानादिना धर्मलोपापत्तिरित्यर्थः ।

[2] क्रिया च द्विविधा । [3] तदाह बृहस्पतिः -

170 द्विप्रकारा क्रिया प्रोक्ता मानुषी दैविकी तथा ।
एकैकनेकधा भिन्ना ऋषिभिस्तत्त्ववादिभिः ॥ [B 4.6]

171 साक्षिलेखानुमानं च मानुषी त्रिविधा स्मृता । [B 4.8ab]
घटाद्या धर्मजान्ता च दैविकी नवधा स्मृता ॥ [B 4.7cd]

[1] लेखो भोगस्याप्युपलक्षणं । [2] धर्मजान्ताश्च नवाप्यनेनैव वक्ष्यन्ते ।

[3] अत्र दैविकी द्वेधा, शपथदिव्यभेदात् । [4] तदाह बृहस्पतिः -

172 सत्यं वाहनशस्त्राणि गोबीजकांचनानि च ।
देवब्राह्मणपादाश्च पुत्रदारशिरांसि च ॥ [B 8.33]

173 एते तु शपथाः प्रोक्ताः स्वल्पेऽर्थे सुकरास्तथा ।
साहसेष्वभिशापेषु दिव्यान्याहुर्विशोधनं ॥ [B 8.34]

[1] हलायुधेन तु दिव्यशपथयोरभेद एव व्यवस्थापितः ।

168[2] ०प्रवर्तने : CM2 वर्तने । 169[1] कार्योऽन्यथा : B2 कार्यः अन्यथा । 169[1] ०संधाना० : LCM2 सम्बन्धा । 170 दैविकी : B2M1LCM2 दैवकी । 171 दैविकी : B1B2 दैवकी । 171[1] लेखो : B2L लेखा । 171[3] द्वेधा : CM2 द्विविधा । 173 सुकरास्तथा : LCM2 सुकराः स्मृताः । 173[1] एव व्यवस्थापितः : B1 एवोक्तः ।

[2] कात्यायनः -

174 यद्येको मानुषीं ब्रूयादन्यो ब्रूयात्तु दैविकीं ।
मानुषीं तत्र गृह्णीयान्न तु दैवीं कदाचन ॥ [K 218]

175 यद्येकदेशव्याप्तापि क्रिया विद्येत मानुषी ।
सा ग्राह्या न तु पूर्णापि दैविकी वदतां नृणां ॥ [K 219]

[1] एकदेशव्याप्तापीति - स्तुतिर्वा अर्थान्तरव्याप्त्येकदेशविषयकं वा एकदेशविभावने ऽपि सर्वं दद्यामिति पणबन्धविषयकं वा ।

176 क्रिया न दैविकी प्रोक्ता विद्यमानेषु साक्षिषु ।
लेख्ये सति च वादेषु न स्याद्दिव्यं न साक्षिणः ॥ [K 223]

[1] तथा -

177 अनेकार्थाभियोगे तु यावत्संसाधयेद्धनी ।
साक्षिभिस्तावदेवासौ लभते साधितं धनं ॥ [K 473]

[1] वस्तूनां यत्रान्योन्याविनाभावो नास्ति तद्विषयमिदं ।

[2] व्यासः -

178 प्राङ्न्यायकारणोक्तौ तु प्रत्यर्थी साधयेत् क्रियां ।
मिथ्योत्तरे पूर्ववादी प्रतिपत्तौ न सा भवेत् ॥ [Vy 1.29]

179 मिथ्या क्रिया पूर्ववादे कारणे प्रतिवादिनः ।
प्राङ्न्यायविधिसिद्धौ च जयपत्रं विनिर्दिशेत् ॥ [Vy ?]

[1] मिथ्या मिथ्योत्तरे सति पूर्ववादिनः क्रिया सा च मानुषी ग्राह्या । [2] न गृहीतं मयेत्यत्र हि प्रत्यर्थिनः सा न भवतीति न्यायो ऽत्र मूलं । [3] न चाभावो न बोध्य इत्यतो ऽत्रापि भावस्यैव बोध्यता, [4] अभिशापे अभावस्यैव परीक्षणात् । [5] एतेन सुकरत्वात् प्रथमोपस्थितत्वाच्च भावबोधनमित्यपास्तं ।

[6] न च क्रियापदं यावदर्थकं प्राङ्न्यायकारणयोरन्वीयते तावदर्थकमेव मि-

---

175[1] °देशविषयकं वा : B1 विषयम्वा । 175[1] पणबन्धविषयकं वा: B1 पणविषयं वा । 177 तु : LCM2 षु । 177[1] तद्विषयमिदं : B1 तद्विषयमिति । 178 साधयेत् : CM2 निर्दिशेत् । 178 मिथ्योत्तरे पूर्ववादी : LCM2 मिथ्योक्तौ पूर्ववादी तु । 179[1] सा च : B1 om । 179[2] भवतीति : B1B2 सम्भवतीति । 179[3] इत्यतो ऽत्रापि : LCM2 इत्यतोपि तत्र । 179[4] परीक्षणात : B1 परीक्षणीयत्वात् ।

थ्योत्तरे ऽप्यनुषज्यते । [7]तेन मिथ्योत्तरे ऽर्थिन एवादृष्टमपीति वाच्यं । [8]श्रूयमाणशब्दे पुनरन्वयमात्रमेव ह्यनुषङ्गो न त्वर्थावैषम्यसहितं गौरवात् ।

[9]तदभावे तु दैवी । [10]तदाह याज्ञवल्क्यः -

180 प्रमाणं लिखितं भुक्तिः साक्षिणश्चेति कीर्तितं ।
एषामन्यतमाभावे दिव्यान्यतममुच्यते ॥ [Y 2.22]

[1]सा प्रतिवादिनः -

181 न कश्चिदभियोक्तारं पुनर्दिव्ये नियोजयेत् ।
अभियुक्ताय दातव्यं दिव्यं दिव्यविशारदैरिति [K 244=411]

[1]वाक्यस्य दिव्यप्राप्तौ पूर्वार्थिनाभियोक्तुस्तन्निषेधे ऽर्थतो ऽभियोज्यस्य तद्विधावुत्तरार्थेन तन्नियमनात् । [2]सिद्धे सत्यारम्भस्य नियमार्थत्वात् । [3]तस्य तु संदिहानत्वे पापित्वे वा तच्छून्यस्यार्थिन एवानन्यगतिकत्वात्। [4]शौचनिश्चययोस्तौल्ये स्वेच्छस्य,[5]रुच्या वान्यतरः कुर्यादिति वचनात्। [6]इच्छातौल्ये प्रत्यर्थिन एव, [7]अभियुक्तायेत्यादिवचनादेवेति संक्षेपः ।

[8]बलवत्कारणोत्तरे तु प्रतिवादिनः क्रियेत्याह कात्यायनः -

182 प्रपद्य कारणं पूर्वमन्यद् गुरुतरं यदि ।
प्रतिवाक्यगतं ब्रूयात् साध्यते तद्धि नेतरत् ॥ [K 191]

[1]धार्यमाणत्वस्य कारणं ऋणग्रहणं भाषितमभ्युपगम्य तदाधर्यनिमित्तं उत्तरवाक्यगतं यदि गुरुतरं कारणं परिशोधनादिकं ब्रूयात् तदा प्रतिवादिना तत् साध्यते न त्वितरत् समबलमल्पबलं वेत्यर्थः ।

[2]तथा -

183 अर्थिनाभिहितो यो ऽर्थः प्रत्यर्थी यदि तं तथा ।
प्रपद्य कारणं ब्रूयादाधर्यं भृगुरब्रवीत् ॥ [K 170]

[1]कारणं भाषितस्य बाधकारणं । [2]आधर्यं पूर्वपक्षस्येति शेषः ।

[3]नारदः -

184 आधर्यं पूर्वपक्षस्य यस्मिन्नर्थवशाद् भवेत् ।
विवादे साक्षिणस्तत्र प्रष्टव्याः प्रतिवादिनः ॥[N 1.164]

180[1] सा : B2 सा च । 181 °विशारदैरिति : B2LCM2 विशारदैः इति । 181[1] तन्नियमनात् : M1 तन्नियमात् । 181[4] °निश्चययोस्तौल्ये : B1 निश्चययोश्च तौल्ये । 182[1]भाषितमभ्युपगम्य : B2 भाषितमपि अभ्युपगम्य ।

[1] साक्षिण इति दृष्टादृष्टक्रियोपलक्षणं ।

[2] समबलकारणाभिधाने तु पूर्ववादिन एव क्रियेत्याह नारद: -

185 द्वयोर्विवदतोरर्थे द्वयो: सत्सु च साक्षिषु ।
पूर्ववादो भवेद्यस्य भवेयुस्तस्य साक्षिण: ॥ [N 1.163]

[1] याज्ञवल्क्य: -

186 साक्षिषूभयत: सत्सु साक्षिण: पूर्ववादिन: ।
पूर्वपक्षेऽधरीभूते भवन्त्युत्तरवादिन: ॥ [Y 2.17]

[1] इदं तूभयवादिसाक्षिणां सर्वथा साम्ये, अन्यथाज्ञापत्ते: ।

[2] न च -

187 समत्वं साक्षिणां यत्र दिव्यैस्तत्र विशोधयेदिति [K 232ab]

[1] कात्यायनवचनेन सह विरोध:, [2] तस्यान्यविषयत्वात् । [3] तथा हि यत्रैकतरस्य वादिन: साक्षिणां परस्परविरुद्धं निगदतां निगदान्न संशयोच्छेद: तत्रादृष्टेन निर्णय: कार्य इति तदर्थत्वात् ।

[4] वैषम्ये तु बृहस्पति: -

188 साक्षिद्वैधे प्रभूतास्तु ग्राह्या: साम्ये गुणाधिका: ।
गुणिद्वैधे क्रियायुक्ता: तत्साम्ये शुचिमत्तरा: ॥ [B 5.46]

189 क्रिया न दैविकी प्रोक्ता विद्यमानेषु साक्षिषु ।
लेख्ये सति च वादेषु न स्याद्दिव्यं न साक्षिण: ॥ [B 4.12]

[1] एवं प्राङ्न्यायेऽपि प्रतिवादिन: प्रमाणमाह व्यास: -

190 प्राङ्न्याये जयपत्रेण प्राड्विवाकादिभिस्तथा ।
सत्यवादी समाप्नोति यदुक्तेन निवेदितं ॥ [Vy 1.30]

[1] बृहस्पति: -

191 प्रतिज्ञां भावयेद्वादी प्रत्यर्थी कारणं तथा ।
प्राग्वृत्तवादी विजयं जयपत्रेण भावयेत् ॥ [B 4.3]

184[1] दृष्टादृष्टक्रियो° : B1 दृष्टादृष्टो । 184[2] क्रियेत्याह : LCM2 क्रिया इत्याह । 187[3] कार्य : M1 om । 187[3] इति तदर्थत्वात् : B1 इत्यर्थत्वात् । 189 प्रोक्ता : LCM2 युक्ता । 189[1] ऽपि : B1 च । 190 सत्य° : B1B2 सत्यै ।

[1] प्रतिज्ञामिति - प्रतिज्ञातहेतुं गृहीतत्वादिकं अपह्नुतमर्थी दृष्टेन साधये-दित्यर्थः । [2]कारणं बलवत्कारणं प्रत्यर्थी दृष्टेनादृष्टेन वा भावयेत् ।

[3] अथ प्रसङ्गाज्जयपत्रलक्षणं ।

[4] तत्र कात्यायनः -

192 अर्थिप्रत्यर्थिवाक्यानि प्रतिज्ञा साक्षिवाक् तथा ।
निर्णयश्च तथा तस्य यथा चावधृतं स्वयं ॥ [K 259]

193 एतद्यथाक्षरं लेख्यं यथापूर्वं निवेशयेत् ।
सभासदश्च ये तत्र धर्मशास्त्रविदस्तथा ॥ [K 260]

[1] बृहस्पतिः -

194 यद्वृत्तं व्यवहारात्तु पूर्वपक्षोत्तरादिकं ।
क्रियावधारणोपेतं जयपत्रे ऽखिलं लिखेत् ॥ [B 6.27]

195 पूर्वोत्तरक्रियायुक्तं निर्णयान्तं यदा नृपः ।
प्रदद्याज्जयिने लेख्यं जयपत्रं तदुच्यते ॥ [B 6.26]

[1] वसिष्ठः -

196 यथोपन्यस्तसाध्यार्थसंयुक्तं सोत्तरादिकं ।
सावधारणकं चैव जयपत्रकमुच्यते । [Va ?]

197 प्राड्विवाकादिमुद्राङ्कं मुद्रितं राजमुद्रया ॥ [Va ?]

[1] तथा -

198 निरस्ता तु क्रिया यत्र प्रमाणेनैव वादिना ।
पश्चात्कारो भवेत्तत्र न सर्वासु विधीयते ॥ [K 264cdef]

[1] पश्चात् क्रियत इति पश्चात्कारो जयपत्रं ।

[2] यत्र वादिवाक्यतात्पर्यालोचनया जयावधारणं तत्रैव जयपत्रं न त्वन्यत्रे-ति केचित् । [3] तन्न - [4] पूर्वजयविभावनस्यान्यत्रापि कृत्यत्वेन सर्वत्रैव जय-पत्रस्य न्यायतः प्राप्तेरिति ।

191[1] प्रतिज्ञातहेतुं : B1 प्रतिज्ञाहेतुं । 191[2] दृष्टेनादृष्टेन वा : CM2 दृष्टेन। 192 चावधृतं : B2 चावधृतं । 198 वादिना : M1 वादिनां । 198[2] °तात्पर्यालोचनया : B1 पर्यालोचनया । 198[2] त्वन्यत्रेति : B2 त्वन्यत्रापीति । 198[4] सर्वत्रैव : B2LCM2 om ।

[5]भाषोत्तरे क्रिया च पत्रसाक्ष्यादिका निर्णयश्च जयपराजयावधारणं निर्णयकालावस्थिता मध्यस्थाश्चेत्यादिकं सर्वं लेखनीयं निरूपणस्य सम्यक्त्वप्रदर्शनार्थं । [6] भाषोत्तरलेखनं च हेत्वन्तरेण पुनर्न्याये प्रत्यवस्थाननिरासार्थं । [7] न हि न गृहीतं मयेति मिथ्योत्तरेण जितस्य पुनः परिशोधितं मयेति प्रत्यवस्थानं भवति । [8] तदाह कात्यायनः -

क्रियां बलवतीं त्यक्त्वा दुर्बलां योऽवलम्बते ।
स जयेऽवधृते सभ्यैः पुनस्तां नाप्नुयात् क्रियां ॥ [K 221]

निर्णीते व्यवहारे तु प्रमाणमफलं भवेत् ।
लिखितं साक्षिणो वापि पूर्वमावेदितं न चेत् ॥ [K ? = NMā 1.62]

201 यथा पक्वेषु धान्येषु निष्फलाः प्रावृषो गुणाः ।
निर्णीतव्यवहाराणां प्रमाणमफलं तथा ॥ [K ? = NMā 1.63]

[1] त्यक्त्वेति - बुद्धिपूर्वकत्यागावगतेः तत्र क्रियान्तरालाभः ।

[2] अथ ग्राह्यक्रियानिरूपणं ।

[3] तत्र कात्यायनः -

202 अनुमानाद् गुरुः साक्षी साक्षिभ्यो लिखितं गुरु ।
अव्याहता त्रिपुरुषी भुक्तिरेभ्यो गरीयसी ॥ [K 315]

[1] अनुमानं प्रत्याकलितं । [2]तदाह मनुः -

203 बाह्यैर्विभावयेल्लिङ्गैर्भावमन्तर्गतं नृणां ।
स्वरवर्णेङ्गिताकारैश्चक्षुषा चेष्टितेन च ॥ [M 8.25]

[1]स्वरो विकृतो गद्गदत्वादि । [2]वर्णोऽप्यस्वाभाविकः । [3] इङ्गितं स्वेदवेपथुरोमांचादि । [4] आकारो विकृतः । [5] चक्षुषा कातरेण । [6] चेष्टितेन स्थानत्यागादिना । [7] एषां चानन्यथासिद्धेरतिदुर्निरूप्यत्वात् एभ्यः साक्षी बलवानित्यर्थः ।

[8] तथा -

204 ब्रूहीत्युक्तश्च न ब्रूयादुक्तं च न विभावयेत् ।
न च पूर्वापरं विद्यात्तस्मादर्थात् स हीयते ॥ [M 8.56]

198[5] निर्णयश्च : B2LCM2 निर्णयः । 198[6] °लेखनं : B1 लिखनं । 201 निष्फलाः : B1 निःफलाः । 201[1] तत्र : M1 तत् । 201[3] °कारैश्चक्षुषा : B1 कारैः चक्षुषा । 203[1] गद्गदत्वादि : B1 गद्गदादिः । 204 ब्रूहीत्युक्तश्च : B1 ब्रूहीत्युक्तोऽपि । 204 ब्रूयाद् : LCM2 ब्रूयात् ।

205 सन्ति ज्ञातार इत्युक्त्वा दिशेत्युक्तो दिशेन्न यः ।
धर्मस्थः कारणैरेतैर्हीनं तमपि निर्दिशेत् ॥[M 8.57]

206 अभियोक्ता न चेद् ब्रूयात् वध्यो दण्ड्यश्च धर्मतः ।
न चेत्त्रिपक्षाद् ब्रूयात्स धर्मं प्रति पराजितः ॥[M 8.58]

[1] धर्मस्थो विचारकः । [2] हीनं सम्भावितहानिकं । [3] पराजित इति - भङ्गानन्यथासिद्धेरतिनिपुणेनावधारणे स पराजितो व्यवहार्य इत्यर्थः ।

207 न परेण समुद्दिष्टानुपेयात् साक्षिणो रहः ।
भेदयेच्चैव नान्येन हीयेतैवं समाचरन् ॥ [N 1.165]

208 पलायतेऽभियुक्तश्च मौनी साक्षिपराजितः ।
स्वयमभ्युपपन्नश्च अवसन्नश्चतुर्विधः ॥ [NMā 2.32]

209 अन्यवादी क्रियाद्वेषी नोपस्थायी निरुत्तरः ।
आहूतः प्रपलायी च हीनः पंचविधः स्मृतः ॥ [NMā 2.33]

[1] उपेयादुपजापार्थमिति शेषः । [2] अन्येन दूतादिना । [3] पलायत इति - अत्रावसन्नचतुष्टयमध्ये आद्यौ सम्भावितभङ्गौ अन्त्यौ निर्णीतभङ्गौ ।

[4] कात्यायनः -

210 लेखयित्वा तु यो वाक्यं न्यूनमभ्यधिकं पुनः ।
वदेद्वादी स हीयेत नाभियोगं तु सोऽर्हति ॥ [K 197]

[1] एतच्च पूरणसमयातिक्रमे ज्ञेयं ।

[2] बृहस्पतिः -

211 साक्षिणस्तु समुद्दिश्य यस्तु तान्न निगादयेत् ।
त्रिंशद्रात्रात्त्रिपक्षाद्वा हानिस्तस्योपजायते ॥ [B 3.33]

[1] अत्र कार्यगौरवलाघवाभ्यां समयविकल्पः ।

[2] नारदः -

212 सर्वेष्वथ विवादेषु वाक्छले नावसीदति ।
पशुस्त्रीभूम्यृणादाने शास्योऽप्यर्थान्न हीयते ॥ [NMā 2.25]

[1] पश्वादिविवादेषु हानिहेतुभिः शास्यतामापन्नोऽपि न हीयते न पराजित इत्यर्थः ।

[2] बृहस्पतिः -

---

212 सर्वेष्वथ : B2 सर्वेष्वेव ।

213 आचारकरणे दिव्ये कृत्वोपस्थाननिर्णयं ।
नोपस्थितो भवेद्वादी छलं तत्र न कारयेत् ॥ [B 3.40]
214 दैवराजकृतो दोषस्तस्मिन् काले यदा भवेत् ।
अवधित्यागमात्रेण न भवेत्स पराजित: ॥ [B 3.41]

[1] आचारो व्यवहार: । [2] छलं पराजयं ।
[3] दैवेति - अनुपस्थाने भङ्गमङ्गीकृत्यापि दैवादेरनुपस्थितस्यापि न भङ्ग इत्यर्थ: ।

[4] तथा -
215 पूर्वोत्तरे निविष्टे तु विचारे सम्प्रवर्तिते ।
प्रशमं ये मिथो यान्ति दाप्यास्ते द्विगुणं दमं ॥ [B 3.42]

[1] ये वादिनो विचारमारुह्य परस्परं समाचरन्ति ते विवादपदाद् द्विगुणं दण्ड्या: ।

[2] एतच्चानुमानमतिनिपुणस्थेयवेधतया न सकलाकलनीयमतो दुर्बलं ।

[3] इतो ऽपि दिव्यं दुर्बलं । [4] तदाह कात्यायन: -
216 प्रमाणैर्हेतुना वापि दिव्येनैव तु निर्णयं ।
सर्वेष्वेव विवादेषु सदा कुर्यान्निराधिप: ॥ [K 241]
217 पूर्वाभावे तु यत्नेन नान्यथैव कदाचन ॥ [K 243ab]

[1] प्रमाणैर्भुक्तिलिखितसाक्षिभि: । [2] हेतुना अनुमानेन । [3] एवं च भुक्ति-लिखितसाक्ष्यनुमानदिव्यानां पूर्वं पूर्वं बलवत् उत्तरोत्तरमबलमिति पूर्वलाभे सति नोत्तरादर इत्यर्थ: ।

[4] कात्यायन: -
218 लिखितं साक्षिणो भुक्ति: प्रमाणं त्रिविधं स्मृतं ।
लेशोद्देशश्च युक्तिश्च दिव्यानीह विषादय: ॥ [K 214]
219 ऋणे लेख्यं साक्षिणो वा युक्तिलेशादयो ऽपि वा ।
दैविकी वा क्रिया प्रोक्ता प्रजानां हितकाम्यया ॥ [K 233]

[1] लेशो ऽन्यथानुपपन्नो धर्मस्तस्योद्देश: परामर्ष: । [2] तेन परामृष्यमाणो

215[1] विचार° : B2 विवाद । 217[3] बलवत् : B1 वलवद् । 218 लेशोद्देशश्च युक्तिश्च : B2 लेशोद्देशस्तथा युक्ति: M1 लेशोद्देशस्तु युक्तिश्च । 219 दैविकी : CM2 दैवकी । 219[1] धर्मस् : B2 धर्म: ।

ऽन्यथानुपपन्नो धर्म इत्यर्थः ।

[3]पितामहः -

220 स्थावरेषु विवादेषु दिव्यानि परिवर्जयेत् ।
साक्षिभिर्लिखितेनाथ भुक्त्या वा तान् प्रसाधयेत् ॥ [Pi 39]

[1]इदं तु साक्ष्यादीनामत्र प्रायिकतया तदादरणार्थं । [2]तदभावे तु दिव्यमपि कार्यमन्यथा संदेहतादवस्थ्यात् ।

[3]कात्यायनः -

221 वाक्पारुष्ये च भूमौ च दिव्यं न परिकल्पयेत् ॥ [K 239]

222 दत्त्वादत्ते तथादत्ते स्वामिनां निर्णये सति ।
विक्रीयादानसम्बन्धे क्रीत्वा धनमनिच्छति ॥ [K 227]

223 द्यूते समाह्वये चैव विवादे समुपस्थिते ।
साक्षिणः साधनं प्रोक्तं न दिव्यं न च लेख्यकं ॥[K 228]

224 पूगश्रेणीगणादीनां या स्थितिः परिकल्पिता ।
तस्यास्तु साधनं लेख्यं न दिव्यं न च साक्षिणः ॥ [K 225]

225 द्वारमार्गक्रियाभोगजलवाहादिके तथा ।
भुक्तिरेव तु गुर्वी स्यात् न लेख्यं न च साक्षिणः ॥[K 226]

226 प्रक्रान्ते साहसे वादे पारुष्ये दण्डवाचिके ।
बलोद्भूतेषु कार्येषु साक्षिणो दिव्यमेव वा ॥ [K 229]

[1]दत्त्वादत्त इति - दातुं प्रतिश्रुत्यानर्पिते । [2]तथादत्ते दत्त्वा पुनराच्छिद्य गृहीते । [3]स्वामिनां निर्णये सति एतत्स्वामिकमेतदिति निर्णये सति। [4]दत्त्वादत्तादिविवादे साक्षिणः प्रमाणं न दिव्यं न च लेख्यमिति सम्बन्धः । [5]धनं मूल्यधनं । [6]अनिच्छति दातुमिति शेषः । [7]द्वारमार्गक्रिया द्वारेण जलनिःसरणादिक्रिया द्वारक्रिया मार्गेण गवादीनां निःसरणादिक्रिया मार्गक्रिया । [8]भोगो भोग्यं छत्रादि । [9]जलवाहो जलनिर्गममार्गः । [10]आदिपदादुत्करादिसंग्रहः । [11]एषु भुक्तिर्गुर्वी ।

220[1] साक्ष्यादीनामत्र : B1 साक्ष्यादेरत्र । 224 °श्रेणी° : B1B2 श्रेणि । 224 परिकल्पिता : M1 कल्पिता तथा । 225 स्यात् : B2 स्यान् । 226[1] तथादत्ते : B1 तथा अदत्ते । 226[2] दत्त्वा : B1 om । 226[4] सम्बन्धः : B1 समन्वयः । 226[5] मूल्यधनं : M1 मूल्यरूपं ।

[12] पितामहः -

227 यस्मिन् यस्मिन् विवादे तु साक्षिणां नास्ति सम्भवः ।
साहसेषु च सर्वेषु तत्र दिव्यानि दापयेत् ॥ [Pi 29]

[1]साहसेषु प्राणान्तिकदण्डार्हेषु ।

[2]तथा च कात्यायनः -

228 समत्वं साक्षिणां यत्र दिव्यैस्तत्र विशोधयेत् ।
प्राणान्तिकविवादे च विद्यमानेषु साक्षिषु ॥ [K 232abcd]

[1] दृष्टसाम्ये यत्र च मङ्गपक्षे प्राणशास्तिस्तत्र चोभयत्रापि दिव्यमेव कार्यमित्यर्थः ।

[2]नारदः -

229 प्रमाणानि प्रमाणज्ञैः पालनीयानि यत्नतः ।
सीदन्ति हि प्रमाणानि पुरुषस्यापराधतः ॥ [N 1.68]

[1] अपराधः साक्ष्यादीनामस्मरणादिः ।

227[1] °दण्डार्हेषु : B2LCM2 दण्डार्हेषु तत्र दिव्यानि दापयेत् । 227[2] तथा च : B2 तथा M1 om । 228 °विवादे च : B2LCM2 विवादेषु । 228[1] च : B1 om ।

(229) [2]अथ प्रायशः साक्षिभिर्व्यवहारसमाप्तेस्ते निरूप्यन्ते ।

[3]तत्र गौतमः -

230 विप्रतिपत्तौ साक्षिनिमित्ता व्यवस्था ॥ [G 13.1]

[1] प्रायेणेति शेषः ।

[2]मनुः -

231 समक्षदर्शनात् साक्षी श्रवणाच्चैव सिध्यति ॥ [M 8.74ab]

[1] समक्षेति प्रमितार्थः साक्षी भवतीत्यर्थः ।

[2]बृहस्पतिः -

232 लिखितो लेखितो गूढः स्मारितः कुल्यदूतकौ ।
याहच्छिकश्चोत्तरश्च कार्यमध्यगतस्तथा ॥ [B 5.4]

233 नृपोऽध्यक्षस्तथा ग्रामः साक्षी द्वादशधा स्मृतः ।
प्रभेदमेषां वक्ष्यामि यथावदनुपूर्वशः ॥ [B 5.5]

234 जातिनामाभिलिखितं येन स्वं पितृनाम च ।
निवासश्च स विज्ञेयः साक्षी लिखितसंज्ञकः ॥ [B 5.6]

235 अर्थिना च क्रियाभेदैस्तस्य कृत्वा ऋणादिकं ।
प्रत्यक्षं लिख्यते यस्तु लेखितः स उदाहृतः ॥ [B 5.7]

236 कुड्यव्यवहितो यश्च श्राव्यते ऋणिभाषितं ।
विनिह्नुते यथाभूतं गूढसाक्षी स कीर्तितः ॥ [B 5.8]

237 आहूय यः कृतः साक्षी ऋणन्यासक्रियादिके ।
स्मार्यते ऽथ मुहुर्यश्च स्मारितः सो ऽभिधीयते ॥ [B 5.9]

238 विभागदाने विपणे ज्ञातिर्यत्रोपदिश्यते ।
द्वयोः समानो धर्मज्ञः कुल्यः स परिकीर्तितः ॥[B 5.10]

239 अर्थिप्रत्यर्थिवचनं शृणुयात् प्रेषितस्तुयः ।
उभयोः सम्मतः साधुर्दूतकः स उदाहृतः ॥ [B 5.11]

240 क्रियमाणे च कर्तव्ये यः कश्चित्स्वयमागतः ।
अत्र साक्षित्वमस्माकमुक्तो याहच्छिकस्तु सः ॥ [B 5.12]

241 यः साक्षी तु दिशं गच्छन् मुमूर्षुर्वा यथाश्रुतं ।

---

232 °गतस्तथा : M1 गतः LCM2 गतः परः । 236 श्राव्यते : B2 शृणोति ।

अन्यं संश्रावयेत्तं तु विद्यादुत्तरसाक्षिणं ॥[B 5.13]

242 साक्षिणामपि यः साक्ष्यमुपर्युपरि भाषतां ।
श्रवणात् श्रावणाद्वापि स साक्ष्युत्तरसंज्ञितः ॥[B 5.14]

243 उभाभ्यां यस्य विश्वस्तं कार्यं वा विनिवेदितं ।
गूढचारी स विज्ञेयः कार्यमध्यगतस्तथा ॥[B 5.15]

244 अर्थिप्रत्यर्थिनोर्वाक्यं यच्छ्रुतं भूभृता स्वयं ।
स एव तत्र साक्षी स्याद्विसंवादे द्वयोरपि ॥ [B 5.16]

245 निर्णीते व्यवहारे तु पुनर्न्यायो यदा भवेत् ।
अध्यक्षः सभ्यसहितः साक्षी स्यात्तत्र नान्यथा ॥ [B 5.17]

246 दूषितं घातितं यत्तु सीमायास्तु समन्ततः ।
अकृतोऽपि भवेत्साक्षी ग्रामस्तत्र न संशयः ॥ [B 5.18]

[1]अत्र साक्षी द्विविधः - द्रष्टा श्रोता च । [2] तत्र द्वावपि षड्विधौ । [3]तत्राद्यो लिखितलेखितस्मारितकुल्ययादृच्छिककार्यमध्यगतभेदात् षोढा। [4] अन्त्योऽपि गूढदूतोत्तरसाक्षिग्रामाध्यक्षराजभेदात् षोढैव । [5] तत्र प्रथमषट्के आद्यस्य लक्षणं - जातीत्यादि । [6] क्रियादर्शी स्वयं लिखितस्वसाक्ष्यो लिखितसाक्षीत्यर्थः । [7] द्वितीयस्य तु - अर्थिनेत्यादि। [8]क्रियादर्शी वणिगादिलिखितो लेखित इत्यर्थः । [9] तृतीयस्य तु - आहूयेत्यादि । [10] क्रियादर्शी तद्बोधितसंस्कारः स्मारित इत्यर्थः । [11] चतुर्थस्य - विभागेत्यादि। [12] क्रियादर्शी धनिकादिसनाभिः कुल्य इत्यर्थः । [13]पंचमस्य तु - क्रियमाणेत्यादि । [14] क्रियादर्शी अतिरस्कृतापुरस्कृतो यादृच्छिक इत्यर्थः। [15]षष्ठस्य तु - उभाभ्यामित्यादि । [16] तत्क्रियाव्यवहारान्तर्गतस्तत्क्रियादर्शी कार्यमध्यगत इत्यर्थः। [17] अत्र विश्वस्तं विश्वासः कृतः । [18] वाकारः समुच्चये । [19] यद्यपि कार्यविनिवेदनात् श्रुतो साक्ष्यसौ तथापि कार्यमध्यगतत्त्वं पुरस्कृत्य द्रष्टृवर्गे गणित इत्यवधेयं । [20] उत्तरषट्के तु प्रथमस्य लक्षणं - कुड्येत्यादि । [21] अभियुक्ताज्ञातः सन्नभियोक्त्रभिहिताभियुक्तवाक्यश्रावी गूढसाक्षीत्यर्थः । [22] द्वितीयस्य तु - अर्थीत्यादि । [23] प्रेषितो निर्णयक्षमवादिवाक्यश्रावी दूत इत्य-

----

242 साक्ष्युत्तर° : B2 स्यादुत्तर । 246[1] द्विविधः : LCM2 द्विविधो । 246[4] अन्त्योऽपि : B1 अन्त्यो । 246[4] °ग्रामाध्यक्षराज° : M1 राजाध्यक्षग्राम । 246[9] तु : B2 om । 246[11] चतुर्थस्य : B1 चतुर्थस्य च। 246[17] कृतः : B1 स कृतः । 246[22] तु : B2 om ।

र्थः । [24] तृतीयस्य तु - य इत्यादिश्लोकद्वयं । [25] साक्षिवचनात्तदर्थनिश्चयवान् उत्तरसाक्षीत्यर्थः। [26] चतुर्थस्य तु - अर्थीत्यादि । [27] भाषोत्तरश्रावी अपरः साक्षीत्यर्थः । [28] अस्य तु भाषाद्यपह्नवे सति पूर्वभाषाद्यभिज्ञतया निर्णायकत्वं । [29] पंचमस्य तु - निर्णीत इत्यादि । [30] पूर्वजयज्ञः पंचमः साक्षीत्यर्थः । [31] षष्ठस्य तु - दूषितं इत्यादि। [32] अभियोगहेतुभूतोपघातद्रष्टा उपहन्तव्यसीमासेत्वादिश्रोता ग्रामादिस्थः षष्ठः साक्षीत्यर्थः ।

[33] प्रजापतिः -

247 साक्षी तु द्विविधो ज्ञेयः कृत एको ऽपरो ऽकृतः ।
लेख्यारूढः कृतो ज्ञेयो मुक्तको ऽकृत उच्यत । इति ॥ [Pr ?]

[1] नारदः -

248 एकादशविधः साक्षी शास्त्रे दृष्टो मनीषिभिः ।
कृतः पंचविधस्तेषां षड्विधो ऽकृत उच्यते ॥ [N 1.149]

249 लिखितः स्मारितश्चैव यदृच्छाभिज्ञ एव च ।
गूढश्चोत्तरसाक्षी च साक्षी पंचविधः स्मृतः ॥[N 1.150]

250 अन्ये पुनरनिर्दिष्टाः साक्षिणः समुदाहृताः ।
ग्रामश्च प्राड्विवाकश्च राजा च व्यवहारिणां ॥ [N 1.151]

251 कार्येष्वभ्यन्तरो यश्च अर्थिना प्रहितश्च यः ।
कुल्याः कुलविवादेषु भवेयुस्ते ऽपि साक्षिणः ॥ [N 1.152]

[1] लिखितस्यैव स्वयं परेण लेखनात् बृहस्पतिना द्वादशसाक्षिण उक्ताः ।

[2] यत्तु -

252 न कार्यो नृपतिः साक्षी न कारुर्न कुशीलव [M 8.65ab]

[1] इति मनुवचनं तद्राज्ञः साक्षित्वकरणनिषेधकं न तु साक्षित्वनिषेधकं । [2] अतो न विरोधः ।

[3] नारदः -

253 सुदीर्घेनापि कालेन लिखितः सिद्धिमाप्नुयात् ।
संजानन्नात्मनो लेख्यमजानन्तं तु लेखयेत् ॥[N 1.167]

---

247 उच्यत इति : B2M1 उच्यते । 252 कुशीलव : B2 कुशीलवः। 252[3] नारदः : B2 om । 253 तु : B2 च ।

[1] सुदीर्घेणेति - संस्कारोद्बोधकलिखनसत्त्वादयं चिरेणापि साक्ष्यं दातुं शक्नोतीत्यर्थः ।
[2] संजानन्निति - लिपिपट्टं साक्षिणां तद्धस्तेनैव लेखयेत् । तदपट्टं तु परहस्तेनेति विशेष इत्यर्थः ।

[3] अथ साक्ष्यार्हाः ।

[4] तत्र मनुः -

254 यादृशा अर्थिभिः कार्या व्यवहारेषु साक्षिणः ।
तादृशान् सम्प्रवक्ष्यामि यथा वाच्यमृतं च तैः ॥ [M 8.61]

255 गृहिणः पुत्रिणो मौलाः क्षत्रविट्शूद्रयोनयः ।
अर्थ्युक्ताः साक्ष्यमर्हन्ति न ये केचिदनापदि ॥ [M 8.62]

256 आप्ताः सर्वेषु वर्णेषु कार्याः कार्येषु साक्षिणः ।
सर्वधर्मविदो ऽलुब्धा विपरीतांस्तु वर्जयेत् ॥ [M 8.63]

[1] ऋतं सत्यं । [2] मौलाः प्रसिद्धकुलोद्भवाः । [3] न ये केचिदिति - गुणवत्साक्ष्यभावे निर्दोषतामात्रेणापि साक्षिणो ग्राह्या इत्यर्थः ।

[4] याज्ञवल्क्यः -

257 तपस्विनो दानशीलाः कुलीनाः सत्यवादिनः ।
धर्मप्रधाना ऋजवः पुत्रवन्तो धनान्विताः ॥ [Y 2.68]

258 त्र्यवराः साक्षिणो ज्ञेयाः श्रौतस्मार्तक्रियान्विताः ।
यथाजाति यथावर्णं सर्वे सर्वेषु वा स्मृताः ॥ [Y 2.69]

[1] यथाजातीति संकीर्णजात्यभिप्रायं, [2] यथावर्णमिति ब्राह्मणादिवर्णानामुपादानात् । [3] यद्वा - यथाजातीति स्त्रीणां स्त्रिय इत्येवमादि । [4] एवं च संख्यागुणादिसाम्ये ऽपि यस्य वादिनः सवर्णाः साक्षिणस्तस्यैव ग्राह्या इति भावः ।

[5] मनुः -

259 स्त्रीणां साक्ष्यं स्त्रियः कुर्युर्द्विजानां सदृशा द्विजाः ।
शूद्राः सन्तश्च शूद्राणां अन्त्यानामन्त्ययोनयः ॥ [M 8.68]

253[2] साक्षिणां : CM2 om । 258[4] साक्षिणस् : B2 साक्षिणः । 258[4] इति भावः : B1 इत्यर्थः ।

[1] नारदः -

260 कुलीना ऋजवः शुद्धा जन्मतः कर्मतोऽर्थतः ।
त्र्यवराः साक्षिणो ज्ञेयाः शुचयः शुद्धबुद्धयः ॥ [N 1.153]

261 ब्राह्मणाः क्षत्रिया वैश्याः शूद्रा ये चाप्यनिन्दिताः ।
प्रतिवर्णं भवेयुस्ते सर्वे सर्वेषु वा पुनः ॥ [N 1.154]

[1] त्र्यवराः त्रयोऽवरा येषां ते त्र्यवराः । [2]तेन त्रिभ्य आरभ्य नवपर्यन्ताः साक्षिणः । [3]यदाह बृहस्पतिः -

262 नव सप्त पंच वा स्युश्चत्वारस्त्रय एव वा ।
उभौ तु श्रोत्रियौ ग्राह्यौ नैकं पृच्छेत्कदाचन ॥ [B 5.1]

[1] उभौ त्विति - पूर्वोक्तगुणेषु सत्स्वेव श्रोत्रियौ चेत्तदोभावपि ग्राह्यौ एकस्तु श्रोत्रियोऽपि न ग्राह्य इत्यर्थः । [2] श्रोत्रियाविति - त्र्यवरसाक्ष्यपेक्षयोत्कृष्टगुणावित्यर्थः ।

[3] शङ्खः -

263 एकः साक्षी सर्वथा न ग्राह्यः ॥ [Sl ?]

[1] गुणवतोऽप्यग्रहणमिति सर्वथापदस्यार्थः ।

[2] एतच्चोभयाननुमतविषयं । [3] उभयानुमतस्त्वेकोऽपि निगाद्य एव । [4] तदाह याज्ञवल्क्यः -

264 उभयानुमतः साक्षी भवेदेकोऽपि धर्मविदिति ॥ [Y 2.72ab]

[1] धर्मविदिति सकलसाक्षिगुणोपलक्षणं ।

[2] नारदः -

265 उभयानुमतो यः स्यात् द्वयोर्विवदमानयोः ।
भवत्येकोऽपि साक्षित्वे प्रष्टव्यः स्यात्तु संसदि ॥ [N 1.192]

[1] उभयानुमत इति - उभयानुमतिविषय इत्यर्थः । [2] न तूभयानुमतियोग्यो, [3]लक्षणापत्तेः । [4] तपस्विन इत्यादिना च गुणवतामेव त्र्यवरत्वविधानात् । [5] योग्यतालक्षकत्वे चानुमतिपदमनर्थकमेव स्यात् ,[6] धर्मवित्पदादे-

---

262 स्युश् : M1 स्युः । 262[1] चेत्तदोभावपि : LCM2 चेत्तदा तावपि । 263[3] निगाद्य : B2LCM2 ग्राह्य । 264 धर्मविदिति : B2 धर्मवित् । 264[1] सकल° : B2 सर्व । 265[4] च : LCM2 om । 265[5] °लक्षकत्वे : B1(?)B2 लक्षणकत्वे । 265[5] °पदमनर्थकमेव : LCM2 पदस्यानर्थक्यमेव ।

वानुमतियोग्यस्य प्राप्तत्वादिति । [7] एतदेव व्यक्तमाह विष्णुः -

266.267 अथ साक्षिणः । कुलवृत्तजातिसम्पन्ना यज्वानस्तपस्विनः पुत्रि-
268 णो धर्मज्ञा अधीयानाः सत्यवन्तस्त्रैविद्यवृद्धा अभिमतगुणसम्पन्न-
स्तूभयानुमत एको ऽपि ॥ [Vi 8.1,8,9]

[1] एकस्य साक्षित्वे अभिमतगुणसम्पत्त्युभयानुमती मिलिते तन्त्रं। [2] यत्तु - भिन्ने इमे तन्त्रं । [3] तेन निर्गुणस्यापि सदोषस्याप्युभयानुमतस्यैकस्य साक्ष्यमेवेति । [4] तन्न - [5] एवमर्थभेदाद्वाक्यभेदापत्तेरिति ।

[6] व्यासः -

269 शुचिक्रियश्च धर्मज्ञः साक्षी यत्रानुभूतवाक् ।
प्रमाणमेको ऽपि भवेत् साहसेषु विशेषतः ॥ [Vy 1.90]

[1] अनुभूता वाक् सत्यत्वेन यस्य स तथा ।

[2] कात्यायनः -

270 अभ्यन्तरस्तु निक्षेपे साक्ष्यमेको ऽपि वाच्यते ।
अर्थिना प्रहितः साक्षी भवेदेको ऽपि याचिते ॥ [K 353]

[1] याचित इति निक्षेपविशेषणं । [2] न्यायतौल्यादन्यत्रापि ।

[3] तथा -

271 संस्कृतं येन यत्पण्यं तत्तेनैव विभावयेत् ।
एक एव प्रमाणं स विवादे परिकीर्तितः ॥ [K 354]

[1] संस्कृतं घटितं । [2] पण्यं कुण्डलादि । [3] एतच्च तादृशस्यान्यस्याभावे तस्य च स्तेयत्वपक्षे द्रष्टव्यं ।

[4] मनुः -

272 एको ऽप्यलुब्धः साक्षी स्यात् बह्व्यः शुच्यो ऽपि न स्त्रियः ।
स्त्रीबुद्धेरस्थिरत्वात्तु दोषैरन्यैश्च ये वृताः ॥ [M 8.77]

[1] प्रमाणसिद्धे तु लुब्धत्वे उभयानुमतो ऽपि साक्षी न ग्राह्यः । [2] लुब्धत्वं तु दोषमात्रोपलक्षणं ।

268^{2-5} यत्तु ... वाक्यभेदापत्तेरिति : LCM2 om । 268^{5} °पत्तेरिति : B2 पत्तेः । 270 अभ्यन्तरस्तु : B1 अभ्यन्तरश्च । 272^{1} तु लुब्धत्वे : M1 तल्लुब्धत्वे ।

[3] अथ साक्ष्यानर्हाः ।

[4] तत्र नारदः -

273 असाक्ष्यपि हि शास्त्रेषु दृष्टः पंचविधो बुधैः ।
वचनाद्दोषतो भेदात्स्वयमुक्तिर्मृतान्तरः ॥ [N 1.157]

274 श्रोत्रियाद्या वचनतः स्तेनाद्या दोषदर्शनात् ।
भेदाद्विप्रतिपत्तिः स्याद्विवादे यत्र साक्षिणां ॥[N 1.157°]

275 राज्ञा परिगृहीतेषु साक्षिष्वेकार्थनिर्णये ।
वचनं यत्र भिद्येत ते स्युर्भेदादसाक्षिणः ॥ [N 1.160]

[1] अस्यार्थः - एकस्य भाषार्थस्य उत्तरार्थस्य वा निर्णयार्थं गृहीतानां साक्षिणां वचनभेदादसाक्षित्वमिति ।[2] एतच्च साक्षिणां सर्वथांतोऽन्यवचनभेदे बोद्धव्यं । [3] अन्यथा तु -

276 बहुत्वं परिगृह्णीयात् साक्षिद्वैधे नराधिपः ।
समेषु च गुणोत्कृष्टान् गुणिद्वैधे द्विजोत्तमानिति [M 8.73]

[1] मनुवचनादेव व्यवस्था । [2]न चेदं साक्ष्युपादानमात्रपरं ,[3] परिगृह्णीयादिति वचनात् ।[4] न तु तद्वचनप्रामाण्यपरमिति वाच्यं, [5]परिग्रहानर्थक्यापत्तेः ।[6] नापि वादिनोरेव साक्षिद्वैधे सतीदं,[7]एकस्यापि वादिनः साक्षिभेदे ऽस्य संकोचेन जागरूकत्वात् ।

[8] याज्ञवल्क्योऽप्याह -

277 द्वैधे बहूनां वचनं समेषु गुणिनां तथा ।
गुणिद्वैधे तु वचनं ग्राह्यं ये गुणवत्तराः ॥ [Y 2.78]

[1] न चेदं वचनपदं मन्वनुरोधात् परिग्रहपरं, [2] निर्बीजलक्षणापत्तेः ।

[3] अथ -

278 साक्षिणां लिखितानां च निर्दिष्टानां च वादिनां ।
तेषामेकोऽन्यथावादी भेदात् सर्वे ऽप्यसाक्षिणः [K 359]

[1] इति कात्यायनवचनेन एकस्याप्यन्यथावादे सर्वेषामसाक्षित्वमुच्यत इति विरोध इति चेत्। [2]न - [3]त्रयाणां साक्षिणां मध्ये एकस्यान्यथावादे

273[4] तत्र : CM2 अत्राह । 275[1] एकस्य : L एक । 275[2] बोद्धव्यं : B2 द्रष्टव्यं । 276[2] चेदं : LCM2 चैवं । 278 लिखितानां च : M1 लिखितानां वा ।

ऽपरस्य तत्तुल्यस्य सत्प्रतिपक्षिततया तृतीयस्य चैकतया तत्र साक्षितो न निर्णीयत इत्यत्र कात्यायनतात्पर्यात्। [4] सत्प्रतिपक्षितावशिष्टानां त्व-नेकत्वे तत एव निर्णय इत्यत्र याज्ञवल्क्यतात्पर्यादिति [5]कात्यायनवचनस्य चास्य स्वमूलभूतन्यायविरोधेनारम्य संकोच्यत्वादिति ।

[6]स्वयमुक्तिं व्याकरोति नारदः -

279 स्वयमुक्तिरनिर्दिष्टः स्वयमेवेत्य यो वदेत् ॥ [N 1.157''ab]

[1]कात्यायनो ऽपि -

280 यः साक्षी नैव निर्दिष्टो नाहूतो नैव देशितः ।
ब्रूयान्मिथ्येति तथ्यं वा दण्ड्यः सो ऽपि नराधमः ॥ [K 404]

[1]मृतान्तरं विविनक्ति नारदः -

281 मृतान्तरो ऽर्थिनि प्रेते मुमूर्षुश्राविताहृते ॥ [N 1.157''cd]

[1]अर्थी धनिकः । [2] मुमूर्षुणा धनिकेन यः साक्षी स्वदायादेभ्यो ऽयमि-यद्धनं मह्यं धारयत्ययं तु जानातीति श्रावितः स मृतान्तरो ऽपि साक्षी भवत्येवेत्यर्थः ।

[3]मृतान्तरस्य त्वसाक्षित्वे हेतुमाह स एव -

282 यो ऽर्थः श्रावयितव्यः स्यात्तस्मिन्नसति चार्थिनि ।
क्व तदुत्तरसाक्षित्वमित्यसाक्षी मृतान्तरः ॥ [N 1.162]

[1]अर्थिना साक्षिणि यो ऽर्थो विवादास्पदीभूतः श्रावयितव्यः त्वमि-ममर्थं जानीहीति तस्मिन् श्रावयितव्ये ऽर्थे श्रावयितरि अर्थिनि असति अश्रुतत्वादर्थविशेषस्य क्वार्थे साक्षी साक्षित्वं वदत इति हेतोर्मृतान्तरो न साक्षीत्यर्थः ।

[2]तेनैतदुक्तं भवति - [3]यस्मिन्नर्थे ऽर्थिनि प्रेते अर्थिपुत्रस्य न विशेषज्ञानं

278[3] ऽपरस्य : B1 अपरस्य। 278[3] तत्तुल्यस्य : LCM2 om । 278[3] °प्रतिप-क्षित° : B2 प्रतिपक्षि M1 प्रतिपक्ष। 278[3] इत्यत्र : B2 इति। 278[3] का-त्यायन° : B1 कात्यायनवचन । 278[4] °प्रतिपक्षिता° : M1 प्रतिपक्षता । 278[4] °तात्पर्याद् :LCM2 तात्पर्यात्। 278[5] °वचनस्य चास्य: M1 वचनस्यास्य। 280 देशितः : LCM2 दर्शितः। 281 मृतान्तरो : M1 मृतान्तरे । 282[1] सा-क्षिणि : B2 साक्षिणो। 282[1] श्रावयितरि अर्थिनि असति : B2 श्रावयि-तर्यर्थिन्यसति । 282[1] वदत : B1B2 वदतु । 282[2] उक्तं : LCM2 व्यक्तं ।

तत्र साक्षिणः तत्सत्त्वे ऽपि न साक्षित्वं सविशेषमनुपन्यासात् सा-
मान्योपन्यस्तस्यापि तस्य साक्षिणो न संख्यादौ विशेषे साक्षित्वं
स्वयमुक्तित्वापत्तेः । [4] किंतूभयोरर्थिसाक्षिणोरुपयुक्ताशेषज्ञतायामेव
मृतान्तरः साक्षीति भावः ।

[5] श्रोत्रियादीन् व्याकरोति स एव -

283 श्रोत्रियास्तापसा वृद्धा ये च प्रव्रजिता नराः ।
असाक्षिणस्ते वचनात् नात्र हेतुरुदाहृतः ॥[N 1.158]

[1] वचनादिति - तेषां साक्षित्वकरणनिषेधकवचनात् । [2] तथा च ते पू-
ज्यतमतया तपश्चर्याव्यासक्तत्वेन विवादपदविस्मरणशीलतया न साक्षि-
णः कार्याः । [3] अकृतास्तु तत्त्वं जानन्तो भवन्त्येव साक्षिणः । [4] त-
दुक्तं - [5] उभौ तु श्रोत्रियौ ग्राह्याविति । [6] नात्र हेतुरिति - नात्रोक्ता-
न्यहेतुरित्यर्थः ।

[7] दोषादसाक्षिणो दर्शयति नारदः -

284 स्तेनाः साहसिकाश्चण्डाः कितवा व्याधकास्तथा ।
असाक्षिणस्ते दुष्टत्वात्तेषु सत्यं न विद्यते ॥[N 1.159]

[1] मनुः -

285 नार्थसम्बन्धिनो नाप्ता न सहाया न वैरिणः ।
न दृष्टदोषाः कर्तव्या न व्याध्यार्ता न दूषिताः ॥[M 8.64]

[1] अर्थसम्बन्धी जयफलभागी । [2] आप्तः सहायो रिपुश्च यो यस्य ।

[3] नारदः -

286 दासनैकृतिकाश्रद्धवृद्धस्त्रीबालचाक्रिकाः ।
मत्तोन्मत्तप्रमत्तार्तकितवा ग्रामयाजकाः ॥[N 1.178]

287 महापथिकसामुद्रवणिक्प्रव्रजितातुराः ।
व्यङ्गैकश्रोत्रियाचारहीनक्लीबकुशीलवाः ॥[N 1.179]

288 नास्तिकव्रात्यदाराग्नित्यागिनो ऽयाज्ययाजकाः ।

---

283 वचनात् : B2LCM2 वचनान् । 283[1] °निषेधक° : B1B2 निषेधकाद् । 283[6] °व्यासक्तत्वेन : M1 व्यासक्तत्वेन च। 283[6] नात्रोक्तान्य° : B2 नात्रोक्तोऽन्यो। 285 कर्तव्या : B1 कर्तव्याः। 285[1] °सम्बन्धी : B2 सम्बन्धिनो । 285[1] भागी :B2 भागिनः। 286 °प्रमत्तार्त° : LCM2 प्रमत्ताश्च ।

एकस्थालीसहायारिचरज्ञातिसनामय: ॥[N 1.180]

289 प्राग्दृष्टदोषशैलूषविषजीव्याहितुण्डिका: ।
गरदाग्निदकीनाशशूद्रापुत्रोपपातिता: ॥[N 1.181]

290 क्लान्तसाहसिकाश्रान्तनिर्धूताग्न्यवसायिन: ।
भिन्नवृत्तासमावृत्तजलतैलिकमूलिका: ॥ [N 1.182]

291 भूताविष्टनृपद्विष्टवर्षनदात्रसूचका: ।
अघशंस्यात्मविक्रेतृहीनाङ्गभगवृत्तय: ॥ [N 1.183]

292 कुनखिश्यावदच्छ्विवित्रिमित्रध्रुक्शठशौण्डिका: ।
ऐन्द्रजालिकलुब्धोग्रश्रेणिगणविरोधिन: ॥[N 1.184]

293 वधकश्चित्रकृच्छुङ्ख: पतित: कूटकारक: ।
कुहक: प्रत्यवसितस्तस्करो राजपूरुष: ॥[N 1.185]

294 मनुष्यपशुमांसास्थिमधुक्षीराम्बुसर्पिषां ।
विक्रता ब्राह्मणश्चैव द्विजो वार्द्धुषिकश्च य: ॥[N 1.186]

295 च्युत: स्वधर्मात् कुलिक: सूचको हीनसेवक: ।
पित्रा विवदमानश्च भेदकश्चेत्यसाक्षिण: ॥[N 1.187]

296 श्रेण्यादिषु च वर्गेषु कश्चिच्चेद् द्वेष्यतामियात् ।
तस्य तेभ्यो न साक्ष्यं स्यात् द्वेष्टार: सर्व एव ते ॥[N 1.156]

[1]नैकृतिका वंचका: । [2]अश्रद्ध: श्रद्धाहीन: । [3]वृद्धो ग्लानेन्द्रिय: । [4]स्त्री पुंसां न साक्षिणी । [5]बालो ऽजातविवेक: ।
[6]महापथिको दीर्घाध्वगामी । [7]आतुरो तिरोगपीडित: । [8]एक: श्रोत्रिय: द्वयो: श्रोत्रिययोर्विहितत्वात् सो ऽप्यननुमत: ।[9]क्लीबं नपुंसकं ।
[10]कुशीलवो रङ्गोपजीवी ।
[11]एकस्थालीसहाय एकपाकभोजी। [12]अरिचरो वादिशत्रुचारी। [13]सनामयस्तु -

297 मातृष्वसृसुताश्चैव सोदर्यसुतमातुला: ।
एते सनामयस्तूक्ता: साक्ष्यं तेषु न विद्यत [K 362]

[1]इति कात्यायनोक्ता: ।
[2]शैलूषो नटभिन्नरङ्गोपजीवी विवक्षित:। [3]विषजीवी विषवैद्य: ।
[4]आहितुण्डिक: सर्पक्रीडोपजीवी व्यालग्राही । [5]गरदाग्निदो परानि-

---

291 °वृत्तय: : B1 विक्रय:। 296 वर्गेषु : B1 सर्वेषु । 296 स्यात् : B2L स्याद् । 296[5] जात° : B1LCM2 अजात । 296[7] ऽतिरोग° : B1LCM2 अतिरोग ।297 विद्यत : B2M2 विद्यते । 297[5] °निष्टार्थं : B2 निष्टाथ ।

ष्ठार्धं विषाग्निप्रयोक्तारौ । [6]कीनाशो हालिकः ।[7] उपपातित उपपातकाक्रान्तः ।
[8] क्लान्तो ऽतिखिन्नः । [9] अश्रान्तो ऽयोग्यकारी । [10] निर्धूतः ग्रामराजकुलश्रेण्यादिभिर्निःसारितः । [11] लोकभयशून्य इति कश्चित् । [12] अग्न्यवसायी क्रोधादिना संस्कृताग्निनिर्वापकः । [13] भिन्नवृत्तः स्वकर्मत्यागी । [14]असमावृत्तः अकृतसमावर्तनः । [15] तैलिकः तिलविक्रयी । [16] मूलिकः मूलं विप्रलम्भस्तत्कारी ।
[17] अघशंसी पराभिशापशीलः । [18] हीनाङ्गः प्रकृतपरिमाणान्यूनाङ्गः।
[19] शङ्खः वृषभनाटनेन भिक्षाटनशीलः । [20] प्रत्यवसितस्त्यक्तप्रव्रज्यः ।
[21] कुलिकः परिच्छेदकत्वेन नियुक्तः ।

[22] सर्वे चैते मन्दाभिधायिनो लोभादिशङ्कनात् । [23] तथा च मनुः -

298 लोभान्मोहाद् भयान्मैत्रात्कामात्क्रोधात्तथैव च ।
अज्ञानाद् बालभावाच्च साक्ष्यं वितथमुच्यते ॥ [M 8.118]

[1] अत्र यद्यपि साक्षिणां विशेषविधिनैव शेषप्रतिषेध इति कण्ठतो निषेधो ऽनर्थकः तथापि विहितालाभ ऽप्यमीषामनुपादानाय माँदृगश्च--रु.भैवतीत्युक्ते ऽप्ययज्ञिया वै माषा इतिवत् । [2]तथा च विहितालाभे अविहितानिषिद्धाः साक्षिणो ग्राह्याः कण्ठतो निषिद्धास्तु सर्वथा न ग्राह्या इत्याशयः ।

[3] एतच्च साक्षिपरीक्षणमृणादिषु न तु साहसादिषु । [4] यदाह कात्यायनः -

299 ऋणादिषु परीक्षेत साक्षिणः स्थिरकर्मसु ।
साहसात्ययिके चापि न परीक्षा क्वचिन्मता ॥[K 365]

[1]तथा -

300 व्याघाते च नृपाज्ञायां संग्रहे साहसेषु च ।
स्तेयपारुष्ययोश्चैव न परीक्षेत साक्षिणः ॥[K 366]

297[5] °प्रयोक्तारौ : B2 दातारौ । 297[7] उपपातित : B2CM2 उपपातितः । 297[8] ऽतिखिन्नः : B1 अतिखिन्नः । 297[9] ऽयोग्य° : B1M1 अयोग्य । 297[9] °कारी : B1 कर्मकारी । 297[10] °श्रेण्यादिभिर्निःसारितः : B1M1 श्रेण्यादिभिः निःसारितः । 297[11] कश्चित् : B1 केचित् । 300 तथा : B2 तथा च । 300 व्याघाते च : CM2 व्याघाते तु ।

[1] संग्रह: सम्यग्ग्रहणं परस्त्रियै कामुकतया ताम्बूलप्रेषणादि ।

301 अन्तर्वेश्मनि रात्रौ च बहिर्ग्रामाच्च यो भवेत् ।
एतेष्वेवाभियोगेषु परीक्षा नात्र साक्षिणां ॥[K 367]

[1] मनुः -

302 साहसेषु च सर्वेषु स्तेयसंग्रहणेषु च ।
वाग्दण्डयोश्च पारुष्ये न परीक्षेत साक्षिणः ॥[M 8.72]

[1] उशनाः -

303 दासोऽन्धो वधिरः कुष्ठी स्त्रीबालस्थविरादयः ।
एतेऽप्यनभिसम्बद्धाः साहसे साक्षिणो मताः ॥[U ?]

[1] स्तेयसंग्रहणादिकार्याणां निह्नवेनैव क्रियमाणत्वात् दैवगत्यैव परं साक्षिणो भवन्तीति मत्वा नैते परीक्षणीयाः ।[2] अनभिसम्बद्धाः प्रकृतापराधजयाद्यसम्बद्धाः ।

[3] तत्रापि केचिद्वर्जनीया एव ।[4] यदाह कात्यायनः -

304 कार्यगौरवमासाद्य भवेयुस्तेऽपि साक्षिणः ॥[N 1.188cd]

305 तेषामपि न बालः स्यात् नैको न स्त्री न कूटकृत् ।
न बान्धवो न चारातिर्ब्रूयुस्ते साक्ष्यमन्यथा ॥[N 1.190]

306 बालोऽज्ञानादसत्यात् स्त्री पापाभ्यासाच्च कूटकृत् ।
विब्रूयाद् बान्धवः स्नेहाद्वैरनिर्यातनादरिः ॥[N 1.191]

[1] एको यथोक्तगुणहीन उभयाननुमतः ।
[2] न चात्र स्त्र्यादीनां विधेर्निषेधाच्च विरोधः,[3] तद्विधेः साक्ष्यन्तराभावविषयत्वात् ।[4] तदाह मनुः -

307 स्त्रियाप्यसम्भवे कार्यं बालेन स्थविरेण वा ।
शिष्येण बन्धुना वाथ दासेन भृतकेन वेति ॥ [M 8.70]

[1] साक्षिणः सत्स्वेव दूषणेषु दूष्याः ।[2] यदाह बृहस्पतिः -

300[1] °प्रेषणादि : B1 प्रेषणादिभिः । 301 °भियोगेषु : B1 भियोगे तु । 301 नात्र : B2 नास्ति । 303[3] तत्रापि : M1 अत्रापि । 305 स्यात् : LCM2 स्यान् । 305 ब्रूयुस्ते साक्ष्यमन्यथा : B2 तेषां साक्षित्वमन्यथा । 306 स्नेहाद् : B1B2 स्नेहात् । 306[3] °विषयत्वात् : M1 विषयकत्वात् । 307 वेति : B2 वा ।

308 साक्षिणोऽर्थिसमुद्दिष्टान् सत्सु दोषेषु दूषयेत् ।
अदुष्टं दूषयन् वादी तत्समं दण्डमर्हति ॥[B 5.21]

[1] तत्समं विवादविषयसमं ।

[2] साक्षिणां च दूषणं समासदामन्येषां च सर्वेषां विदितं ग्राह्यं न तु तदपि त्र्यवरादिसाक्षिभिः प्रतिषेध्यं[3] अनवस्थापातात् । [4] यदाह नारदः -

309 समासदां प्रसिद्धं यत् लोकसिद्धमथापि वा ।
साक्षिणां दूषणं ग्राह्यं असाध्यं दोषवर्जनात् ॥[N ?]

310 अन्यैश्च साक्षिभिः साध्ये दूषणे पूर्वसाक्षिणां ।
अनवस्था भवेद्दोषस्तेषामप्यन्यसम्भवात् ॥[N ?]

[1] असाध्यं साधनानर्हं सिद्धत्वात् । [2] दोषवर्जनात् अनवस्थाविरहात् ।

[3] बृहस्पतिः -

311 लेख्यं वा साक्षिणो वापि विवादे यस्य दूषिताः ।
तस्य कार्यं न सिध्येत यावत्तन्न विशोधयेत् ॥[B 5.29]

[1] तल्लेख्यं साक्षिणश्च प्रमाणमिति यावत् ।

[2] तथा -

312 साक्षिभिर्गदिते साक्ष्ये प्रक्रान्ते कार्यनिर्णये ।
पुनर्विवादं कुरुते तस्य राजा विचारयेत् ॥[B 5.30]

[1] अयं कूटसाक्षीत्यभिधाय यः पुनर्वादी वादं कुरुते तद्राजा विचारयेदित्यर्थः ।

[2] कात्यायनः -

313 नातथ्येन प्रमाणं तु दोषेणैव तु दूषयेत् ।
मिथ्याभियोगे दण्ड्यः स्यात् साध्यादर्थाच्च हीयते ॥[K 278=380]

314 प्रमाणस्य हि ये दोषा वक्तव्यास्तेऽपि वादिना ।
गूढास्तु प्रकटाः सभ्यैः काले शास्त्रप्रदर्शनात् ॥[K 275]

[1] वादिना ज्ञानाभावादनुद्भाविता दोषाः सभ्यैः शास्त्रप्रदर्शनेन प्रकटी-

---

308[2] सर्वेषां : B2 om । 308[2] °साक्षि° : B2 om । 309 यत् : B2LC M2 यल् । 310[2] °वर्जनात् : B2 वर्जनाद् । 310[2] अनवस्था° : LCM2 अनवस्थादोष । 311[2] तथा : M1 om ।

कृत्य सर्वे वक्तव्या इत्यर्थः ।

[1] अथ साक्षिणो यथा प्रष्टव्यास्तदुच्यते ।

[2] तत्र कात्यायनः -

315 न कालहरणं कार्यं राज्ञा साक्षिप्रभाषणे ।
महान् दोषो भवेत्कालात् धर्मव्यावृत्तिलक्षणः ॥[K 339]

[1] नारदः -

316 आहूय साक्षिणः पृच्छेन्नियम्य शपथैर्भृशं ।
समस्तान् विदिताचारान् विज्ञातार्थान् पृथक् पृथक् ॥[N 1.198]

[1] ननु पृथक् पृथक् कथं प्रश्नः -

317 नासमवेताः प्रष्टव्याः प्रब्रूयुरिति [G 13.6]

[1] गौतमवचनात्। [2] न - [3] कात्यायनेन विरोधस्य परिहृतत्वात्। [4] यदाह -

318 समवेतैस्तु यद्दृष्टं वक्तव्यं तु तथैव तत् ।
विभिन्नैस्तु कृतं कार्यं तद्वक्तव्यं पृथक् पृथक् ॥ [K 394]

319 भिन्नकाले तु यत्कार्यं विज्ञातं तत्र साक्षिभिः ।
एकैकं वादयेत्तत्र भिन्नकाले तु तद् भृगुः ॥ [K 395]

[1] मिलितैरेवावगते कार्ये मिलिता एव प्रष्टव्याः । [2] एकैकशस्तु तत्कार्यविगतो पृथक् पृथगित्यविरोधः ।

[3] कात्यायनः -

320 अर्थिप्रत्यर्थिसांनिध्ये साध्यार्थस्य च संनिधौ ।
प्रत्यक्षं वादयेत् साक्ष्यं परोक्षं न कथंचन ॥ [K 388]

321 अर्थस्योपरि वक्तव्यं तयोरपि विना क्वचित् ।
चतुष्पदेष्वयं धर्मो द्विपदस्थावरेष्वपि ॥ [K 389]

322 तुल्यगणिममेयानामभावे ऽपि हि वादयेत् ।
क्रियाकारेषु सर्वेषु साक्षित्वं न ततो ऽन्यथा ॥[K 390]

---

315 कालात् : LCM2 कालाद् । 316 पृच्छेन् : M1 पृच्छेत् । 318 तु तथैव तत् : B1B2 तत्तथैव च । 319[1] मिलितैरेवावगते : LCM2 मिलितैरवगते। 321 चतुष्पदे : M1 चतुष्पादे । 321 द्विपद° : M1 द्विपाद LCM2 द्विपदे ।

[1] वादिप्रतिवादिवस्तूनां संनिधौ साक्षिवादनं कार्यमिति मुख्यः कल्पः । [2] वस्तुमात्रसंनिधौ वादिसंनिधापनाशक्यत्वे सति कार्यमित्यवरः कल्पः । [3] अयं च नियमश्चतुष्पदादिष्वेव । [4] हिरण्यादिषु तु वस्त्वसंनिधावपि साक्षिवादनं ।

[5] तत्र तुल्यं तुलापरिच्छेद्यं हिरण्यादि । [6] गणिमं कपर्दकादि । [7] मेयं मातव्यं धान्यादि । [8] क्रियाकारो व्यवहारः । [9] तेन सर्वेषु व्यवहारेषु एषैव रीतिरित्यर्थः ।

[10] मनुः –

323 देवब्राह्मणसांनिध्ये साक्ष्यं पृच्छेदृतं द्विजान् ।
प्राङ्मुखोदङ्मुखान् वापि पूर्वाह्णे तु शुचिः शुचीन् ॥ [M 8.87]

324 समान्तः साक्षिणः सर्वानर्थिप्रत्यर्थिसंनिधौ ।
प्राड्विवाको ऽनुयुंजीयात् विधिनानेन शान्त्वयन् ॥ [M 8.79]

325 यद् द्वयोरनयोर्वेत्थ कार्ये ऽस्मिंश्चेष्टितं मिथः ।
ब्रूत सर्वमशेषेण युष्माकं ह्यत्र साक्षिता ॥ [M 8.80]

326 सत्यं साक्षी ब्रुवन् साक्ष्ये लोकानाप्नोति पुष्कलान् ।
इह चानुत्तमां कीर्तिं वागेषा ब्रह्मनिर्मिता ॥ [M 8.81]

327 साक्ष्ये ऽनृतं वदन् साक्षी पाशैर्बध्येत वारुणैः ।
विवशः शतमा जातीस्तस्मात् साक्षीवदेदृतं ॥ [M 8.82]

328 सत्येन पूयते साक्षी धर्मः सत्येन वर्धते ।
तस्मात् सत्यं हि वक्तव्यं सर्ववर्णेषु साक्षिभिः ॥ [M 8.83]

329 आत्मैव ह्यात्मनः साक्षी गतिरात्मा तथात्मनः ।
मावमंस्थास्त्वमात्मानं नृणां साक्षित्वमुत्तमं ॥ [M 8.84]

330 मन्यन्ते वै पापकृतो न कश्चित्पश्यतीह नः ।
तांस्तु देवाः प्रपश्यन्ति स्वश्चैवान्तरपूरुषः ॥ [M 8.85]

331 द्यौर्भूमिरापो हृदयं चन्द्रार्काग्नियमानिलाः ।
रात्रिः संध्ये च धर्मश्च वृत्तज्ञाः सर्वदेहिनां ॥ [M 8.86]

322[1] संनिधौ : B2 सान्निध्ये । 322[1] मुख्यः : B2 मुख्य । 322[3] °पदा° : B1B2 पादा । 322[4] तु : B2LCM2 om । 322[5] तत्र : B2 om । 322[9] व्यवहारेषु एषैव : B2 व्यवहारेष्वेषैव । 322[9] रीतिरित्यर्थः : LCM2 रीतिः । 324 समान्तः : LCM2 ज्ञानिनः । 324 शान्त्वयन् : LCM2 सान्त्वयन् । 330 स्वश्चैवा° : B2 स्वस्यैवा ।

[1] शतमा जातीः शतं जन्मनानि ।

[2] याज्ञवल्क्यः -

332 साक्षिणः श्रावयेद्वादिप्रतिवादिसमीपगान् ।
ये पातककृतां लोका उपपातकिनां तथा ॥ [Y 2.73]

333 अग्निदानां तु ये लोका ये च स्त्रीबालघातिनां ।
तान् सर्वान् समवाप्नोति यः साक्ष्यमनृतं वदेत् ॥[Y 2.74]

[1] बृहस्पतिः -

334 सत्यप्रशंसावचनैरनृतस्यापवर्जनैः ।
सभ्यैः सम्बोधनीयाश्च धर्मशास्त्रप्रवेदिभिः ॥ [B 5.32]

335 आ जन्मनश्चा मरणात् सुकृतं यदुपार्जितं ।
तत्सर्वं नाशमायाति अनृतस्याभिशंसनात् ॥ [B 5.33]

336 कूटसभ्यः कूटसाक्षी ब्रह्महा च समाः स्मृताः ।
भ्रूणहा वृत्तहा तेषां नाधिकः समुदाहृतः ॥ [B 5.34]

337 एवं विदित्वा तत्साक्षी यथाभूतं वदेद्वचः ।
तेनेह कीर्तिमाप्नोति परत्र च शुभां गतिं ॥[B 5.35]

[1] साक्षिश्रावणे विष्णुनारदौ -

338 अश्वमेधसहस्रं च सत्यं च तुलया धृतं ।
अश्वमेधसहस्राद्धि सत्यमेवातिरिच्यते ॥ [Vi 8.36 = N 1.211]

[1] नारदः -

339 पौराणैर्धर्मवचनैः सत्यमाहात्म्यदर्शनैः ।
अनृतस्यापवादैश्च भृशमुत्त्रासयेदपि ॥[N 1.200]

340 नग्नस्तु प्रतिरुद्धः सन् बहिर्द्वारि बुभुक्षितः ।
अमित्रान् बहुशः पश्येद्यः साक्ष्यमनृतं वदेत् ॥[N 1.201]

341 यां रात्रिमधिविन्ना स्त्री यां चैवाक्षापराजितः ।
यां च भाराभितप्ताङ्गो दुर्विवक्ता स तां वसेत् ॥[N 1.203]

342 साक्षी साक्ष्यसमुद्देशे गोकर्णशिथिलश्चरन् ।
सहस्रं वारुणान् पाशानात्मनि प्रतिमुंचति ॥ [N 1.204]

---

333 तु : B2 च । 336 वृत्त° : B2 वित्त । 336 तेषां : B2 चैषां ।
338 °सहस्रं च : B2 सहस्रं तु । 342 °शिथिलश्चरन् : B1B2 शिथिलं चरन् ।

343 तस्य वर्षशते पूर्णे पाश एक: प्रमुच्यते ।
एवं स बन्धनात्तस्मात् मुच्यते नियतं क्रमात् ॥ [N 1.205]
344 एकमेवाद्वितीयं यत् प्राहु: पावनमात्मन: ।
सत्यं स्वर्गस्य सोपानं पारावारस्य नौरिव ॥ [N 1.210]
345 वरं कूपशताद्वापी वरं वापीशताद् व्रतं ।
वरं व्रतशतात्पुत्र: सत्यं पुत्रशताद्वरं ॥ [N 1.212]
346 भूर्धारयति सत्येन सत्येनोदेति भास्कर: ।
सत्येन वायु: पवते सत्येनाप: स्रवन्ति च ॥ [N 1.213]
347 सत्यमेव परं धाम सत्यमेव परं तप: ।
सत्यमेव परो धर्मो लोकानामिति निश्चितं ॥ [N 1.214]
348 सत्यं देवा: समासेन मनुष्यास्त्वनृतं स्मृतं ।
इहैव तस्य देवत्वं यस्य सत्ये स्थिता मति: ॥ [N 1.215]
349 नास्ति सत्यात्परो धर्मो नानृतात्पातकं परं ।
साक्षिधर्मे विशेषेण सत्यमेव वदेत्तत: ॥ [N 1.226]
350 पुराणानुमतौ चात्र द्वौ श्लोकौ समुदाहृतौ ।
यौ श्रुत्वा सत्यमेवेह सदा वाच्यं नरैर्बुधै: ॥ [N ?]
351 य: परार्थेऽपहरते स्वां वाचं पुरुषाधम: ।
आत्मार्थे किं न कुर्यात्स पापं नरकनिर्भय: ॥ [N 1.227]
352 अर्था वै वाचि नियता वाङ्मूला वाग्विनि:सृता: ।
यस्तु तां स्तेनयेद्वाचं स सर्वस्तेयकृन्नर: ॥ [N 1.228]

[1] अधिविन्ना प्रत्यग्रसपत्नीका । [2] गोकर्णशिथिलश्चरन् व्यवहरन् दृढमब्रुवन्नित्यर्थ: ।

[3] बौधायन: -

353 त्रीनेव च पितॄन् हन्ति त्रीनेव च पितामहान् ।[Bau 1.19.13]
354 सप्त जातानजातांश्च साक्षी साक्ष्यं मृषा वदन् ॥[Bau 1.19.14]

[1] आत्मना सह जातानां सप्तत्वं ।

---

343 तस्मात् : B2LCM2 तस्मान् । 345 व्रतं : B1B2 ह्रद: । 345 व्रतशतात् : B1 शतह्रदात् B2 ह्रदशतात् । 346 प्रवन्ति : M1 प्लवन्ति । 349 परं : B1B2 महत् । 350 नरैर्बुधै: : M1 बुधैर्नरै: । 351 कुर्यात्स : B2 कुर्यात्तु । 352[1] प्रत्यग्र° : B2 प्रत्यक्ष । 352[2] दृढ° : B2 कृत । 354 जातानां : LC M2 जातीनां । 354[1] सप्तत्वं : LCM2 सप्तत्वं परिकीर्तितं ।

355 पंच पश्वनृते हन्ति दश हन्ति गवानृते ।
शतमश्वानृते हन्ति सहस्रं पुरुषानृते ।
हन्ति जातानजातांश्च हिरण्यार्थेऽनृतं वदन् ।
सर्वं भूम्यनृते हन्ति साक्ष्यं साक्षी मृषा वदन् ॥[Bau 1.19.15]

[1]अथ साक्षिशपथाः ।

[2]शङ्खलिखितौ -

356 साक्षिणः सुवर्णरजतगोधान्यसूर्याग्निगजस्कन्धाश्वपृष्ठरथोपस्थ-
357 शस्त्रादिभिः तथा पुत्रपौत्रैर्यथावर्णं परिग्रहविशेषः स्याद्देवब्राह्मणस्वामिनामग्रतः ॥ [SL ?]

[1]सुवर्णेति - सुवर्णादिस्पर्शनेन शापयेदित्यर्थः । [2] तथा पुत्रपौत्रैरिति - पुत्रपौत्रशिरःस्पर्शनेन स्वल्पेऽर्थे शापयेदित्यर्थः । [3] यथावर्णं यस्य वर्णस्य यद्द्रव्यस्पर्शनेन शपथ आम्नातः स्मृत्यन्तरे स तेनैव कारयितव्य इत्यर्थः ।

[4]नारदः -

358 सत्येन श्रावयेद्विप्रं क्षत्रियं वाहनायुधैः ।
गोबीजकांचनैर्वैश्यं शूद्रं सर्वैस्तु पातकैः ॥ [N 1.199]

[1]श्रावयेत् शापयेदित्यर्थः । [2]विप्रमित्यपकृष्टब्राह्मणविषयं, [3]उत्कृष्टे गौतमेन शपथनिषेधात् । [4]तदाह गौतमः - [G 13.13-14]

359.360 शपथेनैकेन सत्यकर्म । तदेव ब्राह्मणसंसदि स्यादब्राह्मणानां ॥

[1]सत्यकर्म सत्यव्यवस्थानं ।

[2]एवं च ब्राह्मणव्यतिरिक्तानामपि साक्षिणामेकशपथोक्तौ क्षत्रियं वाहनायुधैरित्यादिबहुशपथोक्त्या विरोध इति न देश्यं, [3]गौतमवचनस्य गुणवत्साक्षिविषयतया पारिजाते संकोचनादिति ।

[4]मनुनारदौ -

361 ब्रूहीति ब्राह्मणं पृच्छेत् सत्यं ब्रूहीति पार्थिवं ।
गोबीजकांचनैर्वैश्यं शूद्रं सर्वैस्तु पातकैः ॥ [M 8.88 = NQ 5.5]

362 ब्रह्मघ्नां ये स्मृता लोका ये च स्त्रीबालघातिनां ।

---

355 साक्ष्यं साक्षी मृषा वदन् : LCM2 मा स्म(CM2 om) भूम्यनृतं वदीः । 356 °गज° : B2 हस्ति । 357 °विशेषः स्याद् : B2 विशेषतः । 358[2] विप्रमित्यप° : B2 विप्रमिति अप । 358[2] °पकृष्ट° : LCM2 नुत्कृष्ट ।

मित्रद्रुहः कृतघ्नस्य ते ते स्युर्वदतो मृषा ॥[M 8.89 = NQ 5.6]

363 जन्मप्रभृति यत्किंचित् पुण्यं भद्र त्वया कृतं ।
तत्सर्वं ते शुनो गच्छेद्यदि ब्रूयास्त्वमन्यथा ॥ [M 8.90 = NQ 5.7]

364 एको ऽहमस्मीत्यात्मानं यस्त्वं कल्याण मन्यसे ।
नित्यं स्थितस्ते हृद्येष पुण्यपापेक्षिता मुनिः ॥[M 8.91 = NQ 5.8]

365 यमो वैवस्वतो देवो यस्तवैष हृदि स्थितः ।
तेन चेदविवादस्ते मा गङ्गां मा कुरून् गमः ॥ [M 8.92 = NQ 5.9]

[1]यमः संयमनकर्ता । [2]वैवस्वतो सूर्यपुत्रः । [3]अविवादो ऽविसंवादः ।

[4]तथा -

366 नग्नो मुण्डः कपाली च भिक्षार्थी क्षुत्पिपासितः ।
अन्धः शत्रुकुलं गच्छेद्यः साक्ष्यमनृतं वदेत् ॥ [M 8.93 = N 1.201]

367 अवाक्शिरास्तमस्यन्धे किल्बिषी नरकं व्रजेत् ।
यः प्रश्नं वितथं ब्रूयात् पृष्टः सन् धर्मसंशये ॥[M 8.94 = N ?]

368 अन्धो मत्स्यानिवाश्नाति निरपेक्षः सकण्टकान् ।
यो भाषेतार्थवैकल्यमप्रत्यक्षं सभां गतः ॥ [M 8.95 = NMā 3.14]

369 यस्य विद्वान् हि वदतः क्षेत्रज्ञो नाभिशङ्कते ।
तस्मान्न देवाः श्रेयांसं लोके ऽन्यं पुरुषं विदुः ॥[M 8.96 = N ?]

[1]नारदः -

370 यावतो बान्धवान् यस्मिन् हन्ति साक्ष्यनृतं वदन् ।
तावतः संख्यया तस्मिन् शृणु सौम्यानुपूर्वशः ॥ [N 1.207]

371 पंच पश्वनृते हन्ति दश हन्ति गवानृते ।
शतमश्वानृते हन्ति सहस्रं पुरुषानृते ॥ [N 1.208]

372 हन्ति जातानजातांश्च हिरण्यार्थे ऽनृतं वदन् ।
सर्वं भूम्यनृते हन्ति मा स्म भूम्यनृतं वदीः ॥ [N 1.209]

[1]मनुः -

373 अप्सु भूमिवदित्याहुः स्त्रीणां भोगे ऽथ मैथुने ।

---

362 ते ते स्युर्वदतो : B2 ते तस्य वदतो । 363 भद्र : B2LCM2 भद्रं । 365 यस्तवैष : B2M1 यस्तु वैष । 365[3] ऽविसंवादः : B1B2 अविसंवादः । 368 °प्रत्यक्षं : LCM2 सत्यं च । 369 हि वदतः : LCM2 विवदतः । 372 वदीः : LCM2 वदेः M1 वदेत् । 372[1] मनुः : LCM2 om ।

अब्जेषु चैव रत्नेषु सर्वेष्वश्ममयेषु च ॥ [M 8.100]

374 पशुवत् क्षौद्रघृतयोर्यानेषु च तथाश्ववत् ।
गोवद्रजतवस्त्रेषु धान्ये ब्रह्मणि चैव हि ॥ [M 8.100']

375 एतान् दोषानवेक्षस्व सर्वाननृतभाषणे ।
यथाश्रुतं यथादृष्टं सत्यमेवांजसा वद ॥ [M 8.101]

[1] अर्थवैकल्यं अर्थान्यथात्वं ।

[2] पंच बान्धवान् माता पिता भार्या अपत्यमात्मा चेति पंचेति पारिजातः ।

[3] अप्सु तडागादिषु । [4] स्त्रीणां मैथुनरूपे भोगे । [5] अब्जेषु रत्नेषु जलजेषु मुक्तादिषु । [6] ब्रह्मणि वेदे । [7] अन्यत्र तु विषये सामान्यश्रुतमेवानिष्टमन्वीयते ।

[8] नारदः -

376 सत्यं ब्रूह्यनृतं त्यक्त्वा सत्येन स्वर्गमेष्यसि ।
उक्त्वानृतं महाघोरं नरकं प्रतिपद्यसे ॥ [N 1.216]

377 नरकेषु च ते शश्वत् जिह्वामुत्कृत्य दारुणाः ।
असिभिर्घातयिष्यन्ति बलिनो यमकिङ्कराः ॥ [N 1.217]

378 शूलैर्भेत्स्यन्ति चाक्रम्य क्रोशन्तमपरायणं ।
अवाक्शिरसमुत्क्षिप्य क्षेप्स्यन्त्यग्नौ ह्रदेषु च ॥ [N 1.218]

379 अनुभूय सुदुःखास्ताश्चिरं नरकवेदनाः ।
इह यास्यस्यभव्यासु गृध्रकाकादियोनिषु ॥ [N 1.219]

380 ज्ञात्वैताननृते दोषान् तथा सत्येषु सद्गुणान् ।
सत्यं वदोद्धरात्मानं नात्मानं पातय स्वयं ॥ [N 1.220]

381 न बान्धवा न सुहृदो न धनानि महान्त्यपि ।
अलं धारयितुं सर्वे तमस्यन्धे निमज्जतः ॥ [N 1.221]

382 पितरस्त्ववलम्बन्ते पुत्रे साक्षित्वमागते ।
तारयिष्यति किं त्वस्मान् किमधः पातयिष्यति ॥ [N 1.222]

383 सत्यमात्मा मनुष्यस्य सर्वं सत्ये प्रतिष्ठितं ।

---

375 [4] मैथुनरूपे : M1 मैथुनादिरूपे । 376 प्रतिपद्यसे : M1 प्रतिपत्स्यसे । 377 शश्वत् : B2 शश्वज् । 380 दोषान् : B1B2 दोषांस् । 382 त्वस्मान् : T.CM2 वास्मान ।

सर्वथैवात्मनात्मानं श्रेयस्यैव नियोजय ॥[N 1.223]

384 यां रात्रिमजनिष्ठास्त्वं यां च रात्रिं मरिष्यसि ।
वृथा तदन्तरं ते स्यात् साक्ष्यं चेदन्यथा वदेः ॥[N 1.224]

[1]याज्ञवल्क्यः -

385 सुकृतं यत्त्वया किंचिज्जन्मान्तरशतैः कृतं ।
तत्सर्वं तस्य जानीहि यं पराजयसे मृषा ॥[Y 2.75]

[1]मनुः -

386 गोरक्षकान् वाणिजकान् तथा कारुकुशीलवान् ।
प्रेष्यान् वार्द्धुषिकांश्चैव विप्रान् शूद्रवदाचरेत् ॥[M 8.102]

387 ये व्यपेताः स्वकर्मभ्यः परपिण्डोपजीविनः ।
द्विजत्वमभिकाङ्क्षन्ति तांश्च शूद्रवदाचरेत् ॥[M 8.102*]

[1]शूद्रवच्छपथं कारयेदित्यर्थः ।

[2]अथ साक्ष्युक्तिविधिः ।

[3]तत्र कात्यायनः -

388 समान्तस्थैस्तु वक्तव्यं साक्ष्यं नान्यत्र साक्षिभिः ।
सर्वसाक्ष्येष्वयं धर्मोऽन्यत्र स्यात् स्थावरेषु च ॥[K 387]

389 वधे च प्राणिनां साक्ष्यं वादयेच्छवसंनिधौ ।
तदभावे तु चिह्नस्य नान्यथैव प्रवादयेत् ॥[K 391]

390 अनुद्विग्नेन चित्तेन दृष्टं सम्यग्यदा तु यत् ।
प्रत्यक्षं तत्स्मृतं कार्यं साक्ष्यं साक्षी तु तद्वदेत् ॥[K ?]

[1]चिह्नस्य शवचिह्नस्यास्थिकेशादेः ।

[2]अशक्यानयने तु साक्षिणि कात्यायनः -

391 अशक्य आगमो यत्र विदेशप्रतिवादिनां ।
त्रैविद्यप्रहितं तत्र लेख्यं साक्ष्यं प्रदापयेत् ॥[K 352]

[1]तत्र साक्षिनिगदश्राविधार्मिकलिखनादिना निर्णयः कार्य इत्यर्थः ।

---

385 किंचिज् : B2M1 किंचित् ।387 °काङ्क्षन्ति : CM2 वांछन्ति ।387[1] शूद्रवच्छपथं : B2M1 शूद्रवत् शपथं ।387[3] तत्र कात्यायनः : LCM2 om । 390 सम्यग् : B1B2 सम्यक् । 390[1] °चिह्नस्यास्थिकेशादेः : B2 चिह्नस्य ।390[2] तु : LCM2 om ।

[2] बृहस्पतिः -

392 विहायोपानदुष्णीषं दक्षिणं पाणिमुद्धरेत् ।
हिरण्यगोशकृद्दर्भान् समादाय ऋतं वदेत् ॥ [B 5.42]

[1] अत्र दक्षिणपाण्युद्धारोऽवधानार्थोऽदृष्टार्थो वा ।

[2] गौतमः -

393 नासमवेताः पृष्टाः प्रब्रूयुः ॥ [G 13.6]

[1] असमवेता अमिलिताः ।

[2] कात्यायनः -

394 समवेतैस्तु यद्दृष्टं वक्तव्यं तत्तथैव हि ।
विभिन्नैर्नैककार्यं तु तद्वक्तव्यं पृथक् पृथक् ॥ [K 394]

395 भिन्नकालेषु यत्कार्यं विज्ञातं तत्र साक्षिभिः ।
एकैकं वादयेत्तत्र भिन्नकाले तु तद् भृगुः ॥ [K 395]

396 नापृष्टैरनियुक्तैर्वा समं सत्यं प्रयत्नतः ।
वक्तव्यं साक्षिभिः साक्ष्यं विवादस्थानमागतैः ॥ [K ?]

[1] नैककार्यमनेककार्यं ।

[2] तथा -

397 स्वभावोक्तं वचस्तेषां ग्राह्यं यद्दोषवर्जितं ।
उक्ते तु साक्षिणो राज्ञा न प्रष्टव्याः पुनः पुनः ॥ [K 392]

[1] अथ साक्षिपरीक्षा ।

[2] तत्र बृहस्पतिः -

398 उपस्थिताः परीक्ष्याः स्युः स्वरवर्णेङ्गितादिभिः ॥ [B 5.43ab]

[1] तत्र शङ्खलिखितौ -

399 तत्र मन्त्रिभिः शास्त्रसामर्थ्यात् दुष्टलक्षणं ग्राह्यं ॥ [ŚL ?]

[1] तदाह -

400 तिर्यक् प्रेक्षते समन्तादवलोकते अकस्मान्मूत्रपुरीषं विसृजति

---

392 [1] असमवेता : B2 असमवेताः । 394 तत् : LCM2 च । 395 तु : B2 पि ।
399 °सामर्थ्यात् : LCM2 सामर्थ्याद् । 400 अकस्मान् : M1 अकस्मात् ।

देशाद्देशान्तरं गच्छति पाणिना पाणिं पीडयति नखं नि-
कृन्तति मुखमस्य विवर्णतामेति प्रस्विद्यति वास्य ललाटं न
चक्षुर्न च वाचं प्रतिपूजयति अकस्माद् गदति प्रशंसति पुनः
पुनरन्यमपनुदति बहिर्निरीक्षते शस्त्रं परामृशति शोकमुपव-
र्णयति भूमिं विलिखति शिरः कम्पयते ओष्ठौ निर्मजति
सृक्कणी परिलेढि अविस्मितः कर्मसु महत्स्वपि भ्रुवौ संहरति
हसति तूष्णीं ध्यायति पूर्वोत्तरविरुद्धं व्याहरति एव-
मादि दुष्टलक्षणं क्रुद्धस्य स्वामिनोऽन्यत्र प्रकृतिशीलात् ॥[ŚL ?]

[1]विकृतस्वरादयः कूटत्वसम्भावनायां हेतव इति भावः ।

[2]अथ कूटसाक्षिदण्डः ।

[3]तत्र मनुः -

401 लोभात् सहस्रं दण्डः स्यात् मोहात् पूर्वं तु साहसं ।
भयाद् द्वौ मध्यमौ दण्डौ मैत्रात् पूर्वं चतुर्गुणं ॥[M 8.120]

402 कामाद्दशगुणं पूर्वं क्रोधाच्च त्रिगुणं परं ।
अज्ञानाद् द्वे शते पूर्णे बालिश्याच्छतमेव च ॥ [M 8.121]

403 एतानाहुः कूटसाक्ष्ये प्रोक्तान् दण्डान् मनीषिभिः ।
धर्मस्याव्यभिचारार्थमधर्मनियमाय च ॥ [M 8.122]

404 कूटसाक्ष्यं तु कुर्वाणांस्त्रीन् वर्णान् धार्मिको नृपः ।
प्रवासयेद्दण्डयित्वा ब्राह्मणं तु विवासयेत् ॥[M 8.123]

[1]सहस्रं पणानामिति शेषः । [2]मोहात् प्रमादात् । [3]पूर्वसाहसं सार्धप-
णशतद्वयं । [4]द्वौ मध्यमौ साहसावित्यर्थः । तेन पणसहस्रं । [5]पूर्वं चतुर्गु-
णं । तेन पणसहस्रं ।

[6]कामात् स्वनिगादकरादिस्त्र्यनुरागादितः । [7]दशगुणं पूर्वं तेन पंचविंश-
तिशती । [8]त्रिगुणं परं पूर्वापेक्षया मध्यसाहसमेव पंचशतपणरूपं तदेव

---

400 गदति : M1 ददाति । 400 कम्पयते : B1 प्रकम्पयते B2 प्रकम्पयति LC
M2 कम्पयति । 400 निर्मजति : M1 निर्मुजति । 400 सृक्कणी : M1 सृक्व-
णी । 400 कर्मसु : B1 स्वकर्मसु । 400 °लक्षणं : B2 लक्षणं ग्राह्यं । 400
°शीलात् : B1B2 शीलत्वात् LCM2 शीलादिति । 400[3] तत्र मनुः : B1 B2
om । 401 दण्डः : M1 दण्ड्यः । 402 बालिश्याच्छत° : B1B2 वालिश्यात्
शत । 404[6] °रागादितः : B2 रागतः ।

त्रिगुणमिह ग्राह्यं तेन सार्धसहस्रमित्यर्थः । [9] अज्ञानात् तात्कालिकभ्रमात् ।
[10] बालिश्यमत्र यौवनोन्मेषप्राप्तो मदः ।
[11] ब्राह्मणं त्विति - तुशब्देन ब्राह्मणस्य दण्डो व्यवच्छिद्यते । [12] तेन तस्य देशाद् बहिःकरणमात्रं दण्ड इत्यर्थः ।

[13] याज्ञवल्क्यः -

405 पृथक् पृथक् दण्डनीयाः कूटसाक्ष्यकृतस्तथा ।
विवादाद् द्विगुणं दण्डं विवास्यो ब्राह्मणः स्मृतः ॥ [Y 2.81]

[1] एतत्तु लोभादिबहुकारणानिश्चये ।

[2] तथा -

406 यः साक्ष्यं श्रावितोऽन्येभ्यो निह्नुते तु तमोवृतः ।
स दाप्योऽष्टगुणं दण्डं ब्राह्मणं तु विवासयेत् ॥ [Y 2.82]

[1] श्रावितः श्रावितवान् । [2] निह्नुते निगदकालेऽपलपति ।

[3] विष्णुः -

407 कूटसाक्षिणां सर्वस्वापहारः ॥ [Vi 5.179]

[1] एतच्च तच्छीलविषयं ।

[2] नारदः -

408 यस्य दृश्येत सप्ताहादुक्तसाक्ष्यस्य साक्षिणः ।
रोगोऽग्निर्ज्ञातिमरणं ऋणं दाप्यो दमं च सः ॥ [NQ 5.11]

[1] रोगास्तु -

409 ज्वरातीसारविस्फोटगूढास्थिपरिपीडनं ।
नेत्ररुग्गलरोगश्च तथोन्मादः प्रजायते ।
शिरोरुग्भुजभङ्गश्च दैविका व्याधयो नृणां [K 458]

[1] इत्येते ग्राह्याः । [2] अत्र रोगादिकं घोरं ग्राह्यं । [3] एतच्च वक्ष्यते ।

[4] बृहस्पतिः -

410 आहूतो यस्तु नागच्छेत् साक्षी रोगविवर्जितः ।
ऋणं दण्डं च दाप्यः स्यात् त्रिपक्षात् परतस्तु सः ॥ [B 5.45]

411 अपृष्टाः सत्यवचने पृष्टाश्चावचने तथा ।

---

404 [12] देशाद् : B1M1 देशात् । 405 पृथक् पृथक् : B1B2 पृथक् पृथग् । 405 [2] तथा : B2 om । 410 यस्तु : LCM2 यश्च ।

साक्षिणः संनिरोद्धव्या गर्ह्या दण्ड्याश्च धर्मतः ॥ [B 5.47]

[1] रोगपदमलङ्घ्यप्रतिबन्धकपरं । [2] ऋणपदं विवादवस्तुमात्रपरं ।

[3] कात्यायनः -

412 सम्यक्क्रियापरिज्ञाने देयः कालस्तु साक्षिणां ।
संदिग्धं यत्र साक्ष्यं स्यात् सद्यः स्पष्टं विवादयेत् ॥[K 341]

[1] निगाधास्मरणे तत्स्मरणार्थं कालो देयः । [2] स्मरणे तु सद्य एव साक्षिणो निगाधा इत्यर्थः ।

[3] कात्यायनः -

413 अवीचिनरके कल्पं वसेयुः कूटसाक्षिणः ॥[K ?]

[1] गौतमः - [G 13.7-8]

414.415 अवचने दोषिणः । स्वर्गिणः सत्यवचने विपरीते नारकाः ॥

[1] विपरीते अनृतवचने ।

[2] अथ सत्यापवादः ।

[3] तत्र मनुः -

416 शूद्रविट्क्षत्रविप्राणां यत्रर्तोक्तौ भवेद्वधः ।
तत्र वक्तव्यमनृतं तत्सत्यादतिरिच्यते ॥[M 8.104]

[1] ऋतोक्तौ सत्याभिधाने ।

[2] गौतमः -

417.418 नानृतवचने दोषो ऽस्ति जीवनं चेत्तदधीनं । न तु पापीयसो जीवनं ॥ [G 13.24-25]

[1] पापीयसः चौरादेः ।

[2] याज्ञवल्क्यः -

419 वर्णिनां हि वधो यत्र तत्र साक्ष्यनृतं वदेत् ।
तत्पावनाय निर्वाप्यश्चरुः सारस्वतो द्विजैः ॥ [Y 2.83]

411[1] °पदमलङ्घ्य : B2 पदमत्रालङ्घ्य । 411[1] °प्रतिबन्धक° : M1 प्रतिवन्ध । 412 स्पष्टं : B1LCM2 पृष्टं । 412[2] तु : B1 om । 417 चेत्तदधीनं : B2 तदधीनं चेत् । 419 वर्णिनां : M1 वर्णानां ।

[1]मनुः -

420 वाग्दैवतैश्च चरुभिर्यजेरंस्ते सरस्वतीं ।
अनृतस्यैनसस्तस्य कुर्वाणा निष्कृतिं परां ॥[M 8.105]

421 कुष्माण्डैर्वापि जुहुयाद् घृतमग्नौ यथाविधि ।
उदित्यृचा च वारुण्या त्र्यृचेनाब्दैवतेन वा ॥[M 8.106]

[1]चरुरनवस्रावितोऽन्तरूष्मपक्वतण्डुलः । [2] अब्दैवतेन आपो हि ष्ठे- त्यादिना ।

[3]विष्णुः -

422.423 तत्पापशोधनाय कुष्माण्डीर्जुहुयात् । शूद्रस्त्वेकाह्निकं गोदशकस्य ग्रासं दद्यात् ॥ [Vi 8.16-17]

[1]तत्पापं तादृगनृताभिधानजनितपापं । [2]जुहुयात् द्विजातिरिति शेषः । [3] आह्निकं दिवसाहाररूपं ।

[4] अथ साक्षिनिगदः ।

[5]तत्र व्यासः -

424 कालाकृतिवयोद्रव्यदेशजातिप्रमाणतः ।
अन्यूनं चेन्निगादितं सिद्धं साध्यं विनिर्दिशेत् ॥ [Vy 1.109]

[1]यावदुपयुक्तं वादिनोक्तं तावत्तत्साक्षिणा निगदे वादिनो जय इ- त्यर्थः ।

[2]बृहस्पतिः -

425 यस्याशेषं प्रतिज्ञातं साक्षिभिः प्रतिपादितं ।
स जयी स्यादन्यथा तु साध्यार्थं न समाप्नुयात् ॥ [B 5.44]

[1] अन्यथाशेषप्रतिज्ञातप्रतिपादनाभावे । [2] अयं च द्वेधा सम्भवति - अनभि- धाने अनपेक्षिताभिधाने वा । [3] अन्त्योऽपि चतुर्धा - न्यूनाभिधाने अ- धिकाभिधाने अज्ञानाभिधाने विरुद्धपदाभिधाने च ।
[4] अत्र सर्वत्र प्रकृतसाध्यासिद्धिः । [5]किंतु प्रथमतुर्ययोः प्रमाणान्तरमनुसर- णीयं [6] न तु तावतैव तद्भङ्गनिर्णयः [7]विचारारम्भकसंशयस्यानिवृत्तेः ।

419[1] मनुः : B1 om । 421 जुहुयाद् : B1B2 जुहुयात् । 421 च : B1 वा । 421[2] ०तेन आपो : B1M1 तेनापो । 423[2] जुहुयात् : B2 जुहुयाद् । 425[4] प्रकृत० : B1 om । 425[7] ०निवृत्तेः : B2 नुवृत्तेः ।

[8] न च न जानामीति निगदे पराजय एव वादिन इति प्रदीपलिखनविरोध इति वाच्यं । [9] प्रदीपकृता ह्यनिगदे संशयतादवस्थ्येन प्रमाणान्तरानुसरणं ब्रुवता अज्ञानाभावनिगदे ऽपि तस्योक्तप्रायत्वात् । [10] कथं तर्ह्यज्ञाननिगदे मङ्गलिखनं साक्षिज्ञानव्याप्तार्थविशेषाभिप्रायेणेति ।
[11] द्वितीयतृतीययोस्तु मानान्तरानुसरणमित्यत्र न्यूनमभ्यधिकं वेत्यादि-वचनमेव दर्शयिष्यते ।
[12] तस्मात् पंचमे परं मङ्गः । [13] तत्रैव विष्णुः -

426 यस्योचुः साक्षिणः सत्यां प्रतिज्ञां स जयी भवेत् ।
अन्यथावादिनो यस्य ध्रुवस्तस्य पराजयः ॥ [Vi 8.38]

[1] अन्यथावादिन इति - प्रतिज्ञातार्थस्यासत्यत्ववादिन इत्यर्थः । [2] पूर्वार्धे प्रतिज्ञातार्थसत्यत्वस्यैवोपस्थिततया अन्यथापदेन तदसत्यत्वस्यैवाभिधानात् [3] तथैव व्युत्पत्तेः । [4] वादिन इत्यस्य विभागे अर्थपौनरुक्त्यात् । [5] अन्यथेति मात्रस्य साकाङ्क्षतया भवन्तीत्यध्याहारगौरवात् । [6] अध्याहार-लक्षणवाक्यभेदापत्तेश्चेति ।

[7] अथानिगदाः ।

[8] तत्र नारदः -

427 निर्दिष्टेष्वर्थजातेषु साक्षी चेत् साक्ष्यमागतः ।
न ब्रूयादक्षरसमं न तन्निगदितं भवेत् ॥ [N 1.232]

[1] त्वं मह्यं हेम्नां शतस्य धारय एष च तद्वेदेत्युद्दिष्टः साक्षी यत्र द्रव्यं निगदति संख्यायां तु मुह्यते तत्र द्रव्यांशं तन्निगदनिरस्तसंशयमपहायानि-र्णीते संख्यांशे मानान्तरमनुसरणीयमित्येके । [2] द्रव्यांशे ऽपि क्रियान्तर-मिति सम्प्रदायः ।

[3] तथा -

428 न्यूनमभ्यधिकं वापि प्रब्रूयुर्यस्य साक्षिणः ।
तदप्यनुक्तं विज्ञेयमेष साक्षिविधिः स्मृतः ॥ [N 1.234]

[1] अयमर्थः - वादिना शतमाक्षिप्ते न तावदधिकाभिधानं साक्षिणः प्र-माणावगतसार्धशतग्रहणमूलकमिति वक्तुं शक्यते । [2] आदराभ्यासातिशयो

426[2] ०तार्थ० : B1 तार्थस्य । 426[3] ०पत्तेश्चेति : B2 पत्तेः । 427[1] द्र-व्यांशं : M1 द्रव्यांशे । 428 साक्षि० : LCM2 साक्ष्य ।

हि स्मृतिमूलसंस्काराधायक: ³स चार्थिन एव युज्यते न तु साक्षिण: । ⁴तेनार्थी न स्मरति साक्षी च स्मरत्यधिकमिति नोपपन्नं । ⁵नाप्यर्थि-कृतप्रतिज्ञासत्यत्वप्रतिपादनार्थं, ⁶अर्थिनाप्यधिकग्रहणस्याप्रतिज्ञातत्वात् । ⁷नापि विषयान्तरं, ⁸देशकालादे: प्रतिज्ञानात् ।⁹तेनान्यथानुपपत्त्या तावदवगम्यते ¹⁰यदयं ग्रहणस्वरूपं जानात्येव द्रव्यसंख्यादौ भ्रान्त इति मूलभूतवादिवाक्यविरोधादवसीयते । ¹¹न च भ्रान्तिमूलमभिधानमन्यतरप्र-तिज्ञासत्यत्वे प्रमाणं ।

¹²ननु भवत्वेवमधिकाभिधाने न्यूनाभिधाने तु कथं? ¹³उत्तरवाद्युक्तशताग्र-हणस्य साक्ष्यभिहितपंचाशद्ग्रहणे ऽपि सत्यत्वात् कथं न तस्य विजय:? ¹⁴उच्यते - ¹⁵नात्रोत्तरवादिन: शतसंख्यारूपे तात्पर्यं । ¹⁶तथा सति विशेषनिषेधप्रतिज्ञाया: शेषाभ्यनुज्ञाफलकत्वादिति न्यायेनोनशतसं-ख्यावच्छिन्नग्रहणस्वीकारप्रसङ्गात् । ¹⁷ किंतु शतं मया न गृहीतमित्य-स्यायमर्थो ¹⁸यत्तस्मिन् देशादौ न मयास्य किमपि गृहीतमिति । ¹⁹ पं-चाशद्ग्रहणाभिधाने ऽपि नान्यतरप्रतिज्ञासत्यत्वमिति साधूक्तं ²⁰ तदप्य-नुक्तमिति । ²¹ सर्वत्र चात्र संशयप्रशमनार्थं दिव्यादिना क्रियान्तरेण नि-र्णय:, ²²उक्तस्यापि संदेहानपाकरणेन फलतो ऽनुक्तत्वात । ²³ अतो नैतावता जयपराजयावधारणं किंतु क्रियान्तरमिति वाक्यार्थ: । ²⁴ तदु-क्तं -²⁵ न तन्निगदितं भवेदिति²⁶भवदेवस्मृतिसारादय: ।

²⁷नव्यास्तु - ²⁸ इयांस्तु विशेष: -²⁹साक्षिणा सर्वथा संख्यानभिधाने अधिकाभिधाने च सकलप्रतिज्ञायामेव क्रियान्तरं,³⁰संख्यायां भ्रान्तस्य तस्य द्रव्ये ऽपि भ्रमसम्भवात् ³¹तन्निगदस्यैवानुपादानात् । ³² न्यूनाभिधाने च पंचाशद्ग्रहणस्य भ्रान्त्यादिमूलत्वे शङ्काबीजाभावात् ³³ तदतिरिक्तान-भिधाने तु प्रस्मरणस्यापि शङ्कितत्वात् । ³⁴ धर्मव्यवहारे छलादेर्निरस-नीयत्वात् पंचाशद्ग्रहणनिगद आदीयते विरोधाद्यभावादिति संवादाय परीक्ष्यते । ³⁵न चात्राप्यनुक्तत्वातिदेशान्मानान्तरानुसरणं । ³⁶ परी-क्षयावध्युत्तीर्णे ऽस्मिन्न मानान्तरं वैयर्थ्यात् ³⁷साक्ष्यभिहितपंचाशत्पु-राणातिरिक्ते निर्णयान्तरमिति विवेचनीयं ।

428[6] °प्रतिज्ञातत्वात् : B1 प्रतिज्ञानात्। 428[9] तावदव° : B2M1 इदमव। 428[11] °सत्यत्वे : M1 सत्यत्व। 428[15] °रूपे : M1 स्वरूपे। 428[29] साक्षिणा : B1 B2 साक्षिणां। 428[30] तस्य : B1 om। 428[32] च : LCM2 om। 428[34] °व्य-वहारे : B2LCM2 व्यवहारे तु। 428[34] छलादेर्निरस° : B1 छलस्यावश्यनिरस।

[38]यत्तु नारदेनैकदेशविभावनेऽपि सर्वस्य विवादविषयस्य देयत्वमुक्तं तद्यथा -

429 अनेकार्थाभियुक्तेन सर्वार्थस्यापलापिना ।
विभावितैकदेशेन देयं तदपि युज्यते । इति । [N ?]

[1]तदनेकवचनविरोधेन यत्रैकग्रहणमन्यग्रहणाव्यभिचारि तद्विषयं व्याख्येयं। [2]तद्यथा - सुवर्णाद्यनेकवस्तुसहितं पात्रं चौरेण गृहीतं तत्रैकदेशस्यापि सुवर्णाद्यन्यतमस्य विभावने सर्वमेव देयं । [3] तथा च एकदेशपदं व्याप्यभूतैकदेशपरं, [4]एतद्वचनस्य न्यायमूलकत्वात् । [5] राजदण्डविषयं वा। [6] तदुक्तं याज्ञवल्क्येन -

430 सपणश्चेद्विवादः स्यात् तत्र हीनं प्रदापयेत् ।
दण्डं च स्वपणं चैव धनिने धनमेव च ॥ [Y 2.18]

[1] एकदेशविभावनयापि मया सर्वं देयमित्यादिर्यत्र पण इत्यर्थः । [2] अत्र स्वग्रहणात् परकृतः पणः परेण न देय इति द्रष्टव्यं ।

[3] साक्षिणा न्यूनस्याधिकस्य वाभिधाने द्रव्येऽपि क्रियान्तरमिति मिताक्षरा ।

[4] साक्षी च यदा प्रतिज्ञातार्थं पृष्टस्तं न ब्रूते किंतु तद्व्याप्यं तत्रापि तन्निगादकस्य वादिनोर्जय एव, [5] तदभिधानोपस्थापितानुमानेन वादिप्रतिज्ञातार्थस्य प्रमितत्वात् ।

[6] न च साक्षिणा तदनभिधानात् न तथैति वाच्यं ।

431 यस्योचुः साक्षिणः सत्यां प्रतिज्ञां स जयी भवेदिति [Vi 8.38ab]

[1] स्मृतेन्यायिमूलकतया साक्षिपदस्योपलक्षणत्वे केनापि प्रमाणेन यत्प्रतिज्ञातोऽर्थः प्रमितः स जयीत्येवंरूपत्वात् ।

432 साध्यार्थांशेऽपि गदिते साक्षिभिः सकलं भवेत् ।
स्त्रीसंगे साहसे चौर्ये यत्साध्यं परिकीर्तितं [K 397]

[1] इति कात्यायनवचनादेकदेशप्रमापणे सर्वदेयता चौर्यादाविति मिताक्षरा।

[2] श्रुतसाक्षी तु पृष्टो यत्राहमिममर्थमश्रौषमित्याह तत्र नार्थसिद्धिः, [3] शब्दार्थयोर्व्याप्त्यभावात् । [4]किंतु प्रत्यक्षादिव शब्दादप्यर्थं यत्रावधारय-

---

429 युज्यते : M1 युज्यत । 430[3] साक्षिणा : M1 साक्षिणां । 430[4] यदा : M1 यदि । 430[6] °भिधानात् : B2 भिधानान् । 431 भवेदिति : B2 भवेत् इति । 431[1] °ज्ञातोऽर्थः : CM2 ज्ञातार्थः । 431[1] जयीत्येवं : M1 जयी भवत्येवं । 432[1] °प्रमापणे : B1 प्रमाणे ।

ति तत्राप्रामाण्यशङ्काकलङ्कानालिङ्गितशब्देन प्रमितार्थो ऽर्थमेव यत्र निगदति तत्रैवार्थसिद्धिः ।[5] तत्कलङ्के तु न स साक्षी न वा तन्निगद आदेय इति ।

[6]पृष्टानां तु साक्षिणां वचनद्वैधे मनुः -

433 बहुत्वं परिगृह्णीयात् साक्षिद्वैधे नराधिपः ।
समेषु च गुणोत्कृष्टान् गुणिद्वैधे द्विजोत्तमान् ॥ [M 8.73]

[1]द्वैधं साक्ष्यन्तरोक्तव्यतिरेकाभिधायित्वं ।[2] एवं च न जानामीत्यभिधाने ऽपि न द्वैधं, [3]तस्य ज्ञानाभावपरत्वेन ज्ञेयाभावास्पर्शात् ।[4] समेष्विति - संख्यासाम्ये गुणाधिकाः तत्साम्ये जात्यधिका ग्राह्या इत्यर्थः ।[5] सर्वथासाम्ये तु मानान्तरानुसरणमिति भावः ।

[6]नारदः -

434 साक्षिविप्रतिपत्तौ च प्रमाणं बह्वो मताः ।
तत्साम्ये शुचयो ग्राह्यास्तत्साम्ये स्मृतिमत्तराः ॥ [N 1.229]

[1]विप्रतिपत्तिः द्वयोः परस्परविरुद्धाभावाभावनिगदः ।

[2]याज्ञवल्क्यः -

435 उक्ते ऽपि साक्षिभिः साक्ष्ये यद्यन्ये गुणवत्तराः ।
द्विगुणा वान्यथा ब्रूयुः कूटाः स्युः पूर्वसाक्षिणः ॥ [Y 2.80]

[1]कात्यायनो ऽपि -

436 यदा वै भाषितं कार्यं साक्षिभिर्वादिनां भवेत् ।
प्रतिवादी यदा तत्र भावयेत् कार्यमन्यथा ।
बहुभिर्वा कुलीनैर्वा कूटाः स्युः पूर्वसाक्षिणः ॥ [K 408]

[1]कूटा अनादेयनिगदाः ।

[2]ननु -

437 क्रियां बलवतीं त्यक्त्वा दुर्बलां यः समाश्रयेत् ।
स जये ऽवधृते सभ्यैः पुनस्तां नाप्नुयात् क्रियामिति [K 221]

432[4] प्रमितार्थो ऽर्थमेव : M1 प्रमितार्थमेव । 432[5] स : B1 om । 433[2] ऽपि : B1 om । 433[3] ऽस्पर्शात् : CM2 स्पर्शनात् । 434 च : B1 तु । 434[1] °पत्तिः द्वयोः : LCM2 पत्तिर्द्वयोः । 435[5] कात्यायनोऽपि : B1L कात्यायनः ।

[1] कात्यायनविरोधात् कथं द्विगुणसाक्ष्यादिग्रहणं घटेतेति चेत् । [2] स जये ऽवधृत इति विशेषणादेतद्वाक्यस्य जयावधारणोत्तरविषयत्वात् । [3] याज्ञवल्क्यादिवचनस्य च सामान्यमुखस्य जयानवधारणदशाविषयकत्वात् । [4] त्यक्त्वेति अनुपन्यस्येत्यर्थः । [5] तेनानुपन्यस्तमपि बलवत्प्रमाणं दुर्बलप्रमाणप्रवृत्त्युत्तरमप्युपन्यस्तं संशयदशायां व्यापार्यमेव । [6] अत एव सप्तदिनाभ्यन्तरे बलवत्प्रमाणान्तरस्य ग्रहणं तदुपरि च तदग्रहणमिति रत्नाकरकृता सिद्धवल्लिखितं ।

[7] नारदः -

438 निर्णिक्तव्यवहाराणां प्रमाणमफलं भवेत् ।
लिखितं साक्षिणो वापि पूर्वमावेदितं न चेत् ॥[NMā 1.62]

[1] पूर्वमिति - पूर्वमुपन्यस्तं बलवत्प्रमाणं यत् साक्ष्यादिकं वादिना दूरत्वादिदोषात् व्यापारयितुमशकितं विचारकैणाशक्यत्वभ्रमेणापुरस्कृत्य यत्र दुर्बलं प्रमाणमादृतं तत्र सप्ताहोत्तरमपि बलवत्प्रमाणोपस्थितौ तत्पुनर्व्यापार्यमित्यर्थः । [2] इदं च पुनर्दर्शनं विचारस्य शक्यव्यापारणे बलवति प्रमाणे अशक्यव्यापारणत्वभ्रमेण तद्दोषजं । [3] तदुक्तं -

439 साक्षिसभ्यावसन्नानां दूषणे दर्शनं पुनरिति ॥ [NMā 2.40ab]

[1] प्रदीपादयो ऽप्येवमेव ।

437[1] कात्यायन° : B1B2 कात्यायनवचन । 437[1] चेत् : B1 चेत् न । 438[1] यत् : M1 सत् ।

(439) [2] अथ लिखितं ।

[3] तत्र बृहस्पतिः -

440 षाण्मासिके ऽपि समये भ्रान्तिः संजायते यतः ।
धात्राक्षराणि सृष्टानि पत्त्रारूढान्यतः पुरा ॥[B 6.2]

[1] नारदः -

441 लेख्यं तुद्विविधं प्रोक्तं स्वहस्तान्याकारं तथा ।
असाक्षिकं साक्षिमच्च सिद्धिर्देशस्थितेस्तयोः ॥ [N 1.135]

[1] स्वलिखितं साक्षिणमनपेक्ष्यैव प्रमाणमन्यलिखितं तु तमपेक्ष्येत्यर्थः ।

[2] तच्च ऋणक्रयभागदानव्यवस्थाजयपत्त्रभेदात् षोढा । [3] दानपत्त्रमपि द्वे-धा अराजराजभेदात् । [4] इदं च षड्विधमपि सदसद्भेदात् प्रत्येकं द्वेधा ।

[5] याज्ञवल्क्यः -

442 विनापि साक्षिभिर्लेख्यं स्वहस्तलिखितं तु यत् ।
तत्प्रमाणं स्मृतं सर्वं बलोपाधिकृताद्दृते ॥ [Y 2.89]

[1] स्वहस्तेनेति - तल्लेख्यप्रामाण्येन यो ऽभियोज्यस्तल्लिखितमित्यर्थः ।
[2] बलेत्यप्रामाण्यप्रयोजकार्तिरागद्वेषभयशैशवादिसर्वदोषोपलक्षणं ।

[3] द्वितीये नारदः -

443 साक्षिणश्च स्वहस्तेन पितृनामादिपूर्वकं ।
अत्राहममुकः साक्षी लिखेयुरिति ते समाः ॥ [Y 2.87]

[1] शासने तु याज्ञवल्क्यः -

444 दत्त्वा भूमिं निबन्धं वा कृत्वा लेख्यं तु कारयेत् ।
तत्र चागामिनृपतिपरिज्ञानाय पार्थिवः ॥ [Y 1.318]

445 पटे वा ताम्रपट्टे वा स्वमुद्रोपरिचिह्नितं ॥ [Y 1.319ab]

[1] निबन्ध आकारादौ नियतग्राह्यं ।

---

442 तु : LCM2 च । 442[1] ऽभियोज्यस् : B1 भियोज्यः । 445[1] नियत० : B2LCM2 नियतं ।

[2]जयपत्रं तूक्तं प्राक् ।

[3]लेख्यस्य चाप्रामाण्यशङ्कायां लेख्यग्रहीत्रा तन्निरसनीयं । [4]तत्पुत्रेण तु लेख्याधीनो भोग एवोपन्यस्यो न तु लेख्यमुद्धरणीयं । [5]तदाह कात्यायनः -

446 आहर्ता भुक्तियुक्तो ऽपि लेख्यदोषान् विशोधयेत् ।
तत्सुतो भुक्तिदोषांस्तु लेख्यदोषांस्तु नाप्नुयात् ॥ [K 323]

[1]बृहस्पतिः -

447 उद्धरेल्लेख्यमाहर्ता तत्पुत्रो भुक्तिमेव तु ।
अभियुक्तः प्रमीतश्चेत् तत्सुतो ऽपि तदुद्धरेत् ॥ [B 6.39]

[1]अभियुक्त इति - लेख्यसाधुत्वज्ञानार्थमभियुक्ते लेख्यग्रहीतरि तदविज्ञाप्यैव प्रमीते तत्पुत्रेण तत्साधुत्वं साध्यमित्यर्थः ।

[2]कात्यायनः -

448 दृष्टे पत्त्रे स्फुटं दोषं नोक्तवानृणिको यदि ।
ततो विंशतिवर्षाणि क्रान्तं पत्त्रं स्थिरं भवेत् ॥ [K 298]

449 शक्तस्य संनिधावर्थो यस्य लेख्येन भुज्यते ।
वर्षाणि विंशतिं यावत्तत्पत्त्रं दोषवर्जितं ॥ [K 299]

[1] अथ लेख्यदौर्बल्यं ।

[2]तत्र व्यासः -

450 अदृष्टाश्रावितं लेख्यं प्रमीतधनिकर्णिकं ।
अबन्धलग्नकं चैव बहुकालं न सिध्यति ॥ [Vy 1.69]

[1]अदर्शितत्वादिसप्तदोषाश्रये लेख्यं न प्रमाणमित्यर्थः ।

[2]अस्यापवादमाह बृहस्पतिः -

451 उन्मत्तजडबालानां राजभीतप्रवासिनां ।
अप्रगल्भभयार्तानां न लेख्यं हानिमाप्नुयात् ॥ [B 6.52]

[1]उन्मत्तादीनां लेख्यमदर्शितत्वादिना न हानिमाप्नोतीत्यर्थः ।

451[1] ०प्नोतीत्यर्थः : B2 प्नोति इत्यर्थः ।

(451) ²अथ भुक्तिः ।

³तत्र व्यासः -

452 सागमो दीर्घकालश्च निश्छिद्रो ऽन्यरवोज्झितः ।
प्रत्यर्थिसंनिधानश्च पंचाङ्गो भोग इष्यते ॥ [Vy 1.84]

¹प्रमाणमिति शेषः । ²आगच्छति स्वीभवत्यनेनेत्यागमः क्रयादिः तद्वान् । ³दीर्घकालः स्मृत्युक्तकालान्यूनकालः । ⁴निश्छिद्रो निरन्तरः । ⁵अन्यरवोज्झितः परविप्रतिपत्तिप्रकाशशून्यः । ⁶प्रत्यर्थिनो वाधन्यतरस्य संनिधानं यत्र तादृशः ।

⁷ननु सागमत्वं व्यर्थं, ⁸तद्रहितभोगस्यापि प्रामाण्यात् । ⁹तदाह नारदः -

453 अन्यायेन तु यद् भुक्तं पित्रा पूर्वतरैस्त्रिभिः ।
न तच्छक्यमपाकर्तुं क्रमात् त्रिपुरुषागतं ॥ [N 1.91]

454 यद्विनाप्यागमं पूर्वं भुक्तं पूर्वैस्त्रिभिर्भवेत् ।
न तच्छक्यमपाकर्तुं क्रमात् त्रिपुरुषागतं ॥ [N 1.93°]

¹व्यासः -

455 यद्विनागममत्यन्तं भुक्तं पूर्वतरैस्त्रिभिः ।
न तच्छक्यमपाकर्तुं क्रमात् त्रिपुरुषागतं ॥ [Vy 1.85]

¹त्रिपुरुषभोगमाह व्यासः -

456 प्रपितामहेन यद् भुक्तं तत्पुत्रेण च तं विना ।
तौ विना यस्य पित्रा च तस्य भोगस्त्रिपूरुषः ॥ [Vy 1.83]

¹पुरुषजीवनानियमात् पुरुषभोगं परिभाषते स एव -

457 वर्षाणि विंशतिं भुक्त्वा स्वामिनाव्याहृता सती ।
भुक्तिः सा पौरुषी भूमेर्द्विगुणा च द्विपुरुषी ।
त्रिपुरुषी च त्रिगुणा न तत्रापेक्ष्य आगमः ॥ [Vy 1.81]

¹एवं च त्रिपुरुषभोग आगमनिरपेक्ष एव प्रमाणमिति न, ²वचनान्तरविरोधात् । ³तदाह विष्णुः -

---

452 ⁶वाध° : B1 वादिप्रतिवाद । 454 °कर्तुं : B1 हर्तुं । 454-455 यद्विना° ... °पुरुषागतं : B2 om । 457 द्विपूरुषी : B2LCM2 द्विपौरुषी । 457 त्रिपुरुषी : B2 त्रिपौरुषी ।

458 सागमेन तु भोगेन भुक्तं सम्यग्यदा भवेत् ।
आहर्ता लभते तत्र नापहार्यस्तु तत्क्वचित् ॥ [Vi 5.185]

[1] आहर्ता भोक्ता । [2] अपहार्यस्तद्धनस्वामी ।

459 पित्रा भुक्तं तु यद्द्रव्यं भुक्त्याचारेण धर्मतः । [Vi 5.186]
तस्मिन् प्रेते न वाच्यो ऽसौ भुक्त्या प्राप्तं हि तस्य तत् ॥

460 त्रिभिरेव तु या भुक्ता पुरुषैर्भूर्यथाविधि ।
लेख्याभावे ऽपि तां तत्र चतुर्थः समवाप्नुयात् ॥ [Vi 5.187]

[1] भुक्त्याचारेण निश्शङ्कत्वादिना । [2] यथाविधि शक्तस्य संनिहितस्य विरोधादिकं विनेत्यर्थः ।

[3] याज्ञवल्क्यः -

461 आगमेन विशुद्धेन भोगो याति प्रमाणतां ।
अविशुद्धागमो भोगः प्रामाण्यं नैव गच्छति ॥ [Y ?]

[1] नारदो ऽपि -

462 अनागमं तु यो भुङ्क्ते बहून्यब्दशतानि तु ।
चोरदण्डेन तं पापं दण्डयेदवनीपतिः ॥ [N 1.87]

[1] हन्तैवं विरोधात् संशय एवास्त्विति । [2] न, [3] विषयभेदात् । [4] तथा हि पूर्वेषां वचनानामागमसंदेहमुत्तरेषां तु तद्भावनिश्चयमालम्ब्य प्रवृत्तेः । [5] तथा च त्रिपुरुषभोगस्थले आगमसंशये ऽपि भोगः प्रमाणं अन्यत्र त्वागमनिश्चयसहित एवेति सिद्धं ।

[6] याज्ञवल्क्यः -

463 पश्यतो ऽब्रुवतो हानिर्भूमेर्विंशतिवार्षिकी ।
परेण भुज्यमानाया धनस्य दशवार्षिकी ॥ [Y 2.24]

[1] धनस्य गवादेः ।

[2] बृहस्पतिः -

464 अध्यासनात् समारभ्य भुक्तिर्यस्याविघातिनी ।
त्रिंशद्वर्षाण्यवच्छिन्ना तस्य तां न विचालयेत् ॥ [B 7.28]

---

460 [2] विरोधादिकं : B2 विरोधं । 462 दण्डयेदवनीपतिः : M1 दण्डयेत् पृथिवीपतिः । 462 [5] च : B1B2 om । 462 [6] याज्ञवल्क्यः : B2 om । 463 [2] बृहस्पतिः : B1 om ।

[1]अध्यासनं क्रयादिरागमः ।

[2]नन्वनयोरेव वचनयोः परस्परविरोधः [3]त्रिंशद्वर्षभुक्तेः प्रामाण्योक्त्या विंशतिवर्षभुक्तेरर्थतः प्रामाण्यनिरासादिति । [4]न, [5]पश्यतो ऽब्रुवत इत्यभिधानाद्यत्र विरुद्धं वाङ्मात्रमपि नास्ति तत्र विंशतिवर्षभोग एव प्रमाणं, [6]त्रिंशद्वचने चाविघातिर्नीति श्रुतेर्विघातपदार्थस्य कलहताडनादेरेव निषेधात् वाङ्मात्रविप्रतिपत्तौ सत्यामपि त्रिंशद्वर्षभोगो भूस्वत्वे प्रमाणमित्यविरोधात् । [7]एवं चाभ्यां वचनाभ्यां गवादौ नीरवो दशवार्षिको भोगस्तथा भूमौ तादृश एव विंशतिवार्षिकस्तथा भूमावेव सरवो ऽपि कलहादिशून्यः त्रिंशद्वार्षिकभोगः प्रमाणं ।

[8]तत्कथं त्रिपुरुष एवासौ प्रमाणमुच्यत इति [9]अत्र रत्नाकरः - [10]न हुक्तवचनं भोक्तुः स्वत्वे प्रमाणं किंत्वन्यत्र । [11]तथा हि पश्यतो ऽब्रुवत इत्यादेस्तादृशस्य भोक्तुः पार्श्वे गोभूम्यादिस्वामिना तद्भोगसम्बन्धेन धनं न लभ्यत इत्यर्थः ।

465 भुज्यमानान् परैरर्थान् यस्तान्मोहादुपेक्षते ।
समक्षं पश्यतो ऽप्यस्य तान् भुक्तिः कुरुते वश [N 1.78]

[1]इति नारदवचनस्याप्यसावेवार्थः ।

[2]प्रदीपस्तु - [3]आधेरनुपभोगेन यत्रासिद्धिस्तद्विषयं पश्यतो ऽब्रुवत इत्यादिवचनं । [4]तेन यत्राधिग्रहीत्रा आधेयं भूम्यादि न भुज्यते किंत्वाधिकर्त्रैव चिरं भुक्त्वा अन्यत्राधीयते तत्रोत्तरस्याधिग्रहीतुस्तत्र भूम्यादौ प्रभुत्वं न तु प्रथमस्य । [5]तथा च यद्यपि

466 आधौ प्रतिग्रहे क्रीते पूर्वैव बलवत्तरे- [Y 2.23cd]

[1]त्यादिकमपि वचनमस्ति, [2]तथापि तदपवादकं पश्यतो ऽब्रुवत इत्यादिवचनं । [3]तथा चापवादकबलात् द्वितीयस्यैवाधिः सिध्यति । [4]प्रपंचो ऽप्येवं ।

[5]यद्वा हानिपदमेवं उपेक्षितुः पक्षो विचारकस्य न्यूनकोटिकः संशयो भवतीत्येवम्परं । [6]न तु हानिर्भङ्ग एव । [7]तथा सति दण्डमन्तरेण पुनर्द-

---

464[1] अध्यासनं : M1 अत्राध्यासनं। 464[3] °र्थतः : M1 र्थात्। 464[5] °भिधानाद् : B2LCM2 भिधानात् । 464[5] °भोग एव : LCM2 भोगः । 464[6] त्रिंशद्वर्षभोगो : LCM2 त्रिंशद्वर्षभोगः प्रमाणं अव्याहता सतीति श्रुतेः कलहताडनादौ सत्यपि षष्टिवार्षिको भोगो । 464[7] भोगस् : B2 भोगः । 464[7] °शून्यः : B1 शून्यस् । 464[8] °च्यत : B2 च्यते । 466 बलवत्तरेत्या° : B2 वलवत्तरा इत्यादि । 466[1] °दिकमपि : B1 दि । 466[3] °बलात् : B2 वशात्।

शीनं हीनस्य गृह्यते वाद इत्यादिवचनसिद्धं न घटते । [8]तस्मात्तादृशहा-
निमतो ऽप्यस्य पुनर्विचारेणैव निर्णयः कार्यः । [9]अत एव -

467 उपेक्षिता यथा धेनुर्विना पालेन नश्यति ।
पश्यतो ऽन्यैस्तथा भुक्ता भूमिः कालेन हीयते ॥ [Vy 1.76]

468 वर्षाणि विंशतिं यस्य भूमिर्भुक्ता परैरिह ।
सति राज्ञि समर्थस्य तस्य सेह न सिध्यतीति [Vy 1.77]

[1]व्यासवचनयोः पश्यन्तमनादृत्य या यस्य भूः परैर्भुज्यते सा तस्य हीयते तदीयत्वेन न निश्चीयत इति रत्नाकरे ऽपि व्याख्यातं । [2] किंच यदि विंशतिवार्षिकी भुक्तिः स्वत एव स्वत्वे प्रमाणं तदा तत एव साध्यसिद्धौ -

469 शक्तस्य संनिधावर्थो यस्य लेख्येन भुज्यते ।
वर्षाणि विंशतिं यावत्तत्पत्रं दोषवर्जितमिति [K 299]

[1]कात्यायनवचनेन यद्भोगस्य लेख्यदोषनिराकरणार्थत्वमुक्तं तद् व्याहन्येत ।

[2]वस्तुतस्तु हानिबोधकस्मृतीनां प्रमाणपरिपालनकर्तव्यताविधिशेषत्वं ।
[3]तस्मात् स्वप्रमाणं सर्वथा परिपालनीयं न तु तत्रोदासितव्यमित्यत्र तात्पर्यं । [4]अत एव कल्पतरौ हानिवचनानि लिखित्वा प्रमाणपरिपालनमुपसंहृतं ।

[5]याज्ञवल्क्यः -

470 आगमो ऽपि बलं नैव भुक्तिस्तोकापि यत्र नो ॥ [Y 2.27cd]

[1]आगमे विद्यमाने ऽपि भोगविरहात् तावत्कालं स्वत्वानुवृत्तिर्धीर्न भवतीत्यर्थः । [2]यत्र वादिनोः स्वस्वागमबलप्रवृत्तौ आगमयोश्च पूर्वापरभावो न निश्चीयते तत्र यस्य भुक्तिस्तस्यागमो बलीयान्न त्वन्यस्येत्यर्थ इति मिताक्षराकारः ।

[3]नारदः -

---

466 [7] घटते : M1 घटेत । 466 [8] °विचारेणैव : LCM2 विचारेण । 468 यस्य : B1B2 सम्यक् । 468 [1] निश्चीयत : B2 निर्णीयत । 469 [2] °परिपालन° : B1 पालन । 470 [2] °प्रवृत्तौ : B1LCM2 वृत्तौ । 470 [3] °र्थे : B2 र्थः । 470 [3] नारदः : CM2 om ।

471 विद्यमाने ऽपि लिखिते जीवत्स्वपि हि साक्षिषु ।
विशेषतः स्थावराणां यन्न भुक्तं न तत् स्थिरं ॥[N 1.77]

[1]न तत् स्थिरं न तत्स्वत्वसाधकप्रमाणवद् भवतीत्यर्थः ।

[2]तथा –

472 प्रत्यक्षपरिभोगात्तु स्वामिनो द्विदशाः समाः ।
आध्यादीन्यपि जीर्यन्ति स्त्रीनरेन्द्रधनादृते ॥ [N 1.82]

[1]द्विदशाः समाः विंशतिवर्षाणि । [2] स्त्रीनरेन्द्रधनादृते स्त्रीधनराजधने विहाय ।

[3]मनुः –

473 यत्किंचिद्दशवर्षाणि संनिधौ प्रेक्षते धनी ।
भुज्यमानं परैस्तूष्णीं न स तल्लब्धुमर्हति ॥ [M 8.147]

[1]दशेति भूमिन्नधनपरं ।

[2]गौतमः –

474 अजडापोगण्डधनं दशवर्षभुक्तं परैः संनिधौ भोक्तुः ॥[G 12.34]

[1]जडो मूर्खः । [2] पोगण्डः षोडशवर्षाभ्यन्तरवयस्कः –

475 बाल आ षोडशाज्ज्ञेयः पोगण्डश्चेति कथ्यत [N 1.35cd]

[1]इति वचनात् । [2]एवं च प्रवीणस्य धनं संनिधावन्येन भुक्तमुत्सर्गतो भोक्तुरिति ज्ञायत इति रत्नाकरादयः ।

[3]मनुः –

476 आधिश्चोपनिधिश्चोभौ न कालात्ययमर्हतः ।
अवहार्यौ भवेतां तौ दीर्घकालमवस्थितौ ॥[M 8.145]

[1]आधिर्बन्धः । [2] उपनिधिस्तु प्रीत्या भोगार्थं समर्पितं क्षेत्रादि न तु वासनस्थमनाख्यायेत्यादिस्मृतिलक्षितः, [3] तस्य भोगानर्हत्वात् । [4]न कालात्ययमर्हतः मोक्षणकाले आधात्रुपनिधातृभ्यां अवश्यमोक्षणीयावित्यर्थः । [5]अत्र हेतुमाह – [6]अवहार्यावित्यादिना । [7]तौ हि चिरकालाव-

---

471[1] न तत्स्थिरं : B2 om । 472[1] समाः : B1B2 समा । 474 परैः संनिधौ : B1 संनिधौ परैः । 474[2] षोडशवर्षा° : M1 षोडशाब्दा । 475 कथ्यत : B2M1 कथ्यते । 475[2] संनिधावन्येन : B2 संनिधौ परेण । 476[2] °लक्षितः : B2 लक्षितस LCM2 लक्षितं । 476[4] अवश्य° : B2 अवश्यं ।

स्थितौ भोक्तुरवहार्यौ भवेतां भोक्ता च कदाचिदपहरेदपीत्यर्थः ।

[8] बृहस्पतिः –

477 ऋक्थिभिर्वा परैर्द्रव्यं समक्षं यस्य दीयते ।
अन्यस्य भुंजतः पश्चान्न स तल्लब्धुमर्हति ॥ [B 7.40]

478 पश्यन्नन्यस्य ददतः क्षितिं यो न विचालयेत् ।
स्वामी सतापि लेख्येन पुनस्तां न समाप्नुयात् ॥ [B 7.41]

[1] तथा –

479 भूमेरभुक्तिर्लेख्यस्य यथाकालमदर्शनं ।
अस्मारणं साक्षिणां च स्वार्थहानिकराणि तु ॥ [B 7.66]

480 तस्माद्यत्नेन कर्तव्यं प्रमाणपरिपालनं ।
तेन कार्याणि सिध्यन्ति स्थावराणि चराणि च ॥[B 7.67]

[1] ऋक्थिभिरिति – यस्य स्वामिनः समक्षमेव ऋक्थिभिर्वा परैर्वा तदीयधनमन्यस्य कृते दीयते तस्मात् सम्प्रदानात् तच्च द्रव्यं भुंजानात् तद्द्रव्यस्वामी तद्द्रव्यं पुनर्नाप्नोति । [2] तत्र स्वामिन उत्सर्गतः स्वत्वमपैतीत्यर्थः ।

[3] कात्यायनः –

481 भुक्तिर्बलवती शास्त्रे संतता या चिरन्तनी ।
विच्छिन्नापि हि सा ज्ञेया या तु पूर्वप्रसाधिता ॥ [K 329]

482 आदानकालादारभ्य भुक्तिर्या तु निरन्तरा ।
आदानं प्राप्य तस्यास्तु प्रायः साक्ष्यं प्रवर्तते ॥ [K ?]

483 स्मार्ते काले क्रिया भूमेः सागमा भुक्तिरिष्यते ।
अस्मार्ते त्वागमाभावात् क्रमात् त्रिपुरुषागता ॥ [K 321]

[1] संतता अविच्छिन्ना । [2] चिरन्तनी व्यासाद्युक्तकालव्यापिनी । [3] विच्छिन्नापीति – या तु भुक्तिः पूर्वैः पितामहादिभिः कृता सा विच्छिन्नापि ज्ञेयेत्यर्थः ।

[4] ज्ञेयं दर्शयति आदानेति – [5] अस्यामल्पकालायामेव निरन्तरायां तथा पूर्वोक्तायां सान्तरायामुभयस्यामपि भुक्तौ स्वमूलभूत आगमे प्रत्याय्ये

---

477 पश्चान्न : B1(corr sh)B2 पश्यन् न । 478[1] तथा : CM2 om ।
480[1] तदीय° : M1 तदीयं । 483 [5] अस्या° : B1 यस्या B2 तस्या ।

प्राय: साक्ष्यं प्रमाणत्वमित्यर्थ: ।
[6]स्मार्ते इति - स्मार्ते स्मरणयोग्ये। [7]क्रिया प्रमाणं । [8]आगम: क्रयादि: । [9] आगमाभावात् आगमप्रतिसंधानाभावात् । [10] तेनायमर्थ: -[11]आगमस्मरणायोग्ये समये सागमा भुक्तिर्भूमौ प्रमाणमिष्यते । [12] आगमस्मरणायोग्ये तु अतिपातिनि समये आगमप्रतिसंधानविरहिता भुक्तिरेव प्रमाणं न त्वागमाभावनिश्चये ऽपि, [13] तत्र सर्वै: स्वत्वनिषेधादिति ।

[14]अथ सागमभुक्ते: प्रमाणत्वे व्यर्थविशेषणता । [15] न - इदमिदानीं मम स्वमिति हि तावत् साध्यं । [16] तत्र हि स्वत्वभागे आगमस्य तन्त्रता तस्य त्विदानीं पर्यन्तमनुवृत्तौ भोगस्यैति विवेक: ।

[17]याज्ञवल्क्य: -

484 आगमस्तु कृतो येन सो ऽभियुक्तस्तमुद्धरेत् ।
न तत्सुतस्तत्सुतो वा भुक्तिस्तत्र गरीयसी ॥[Y 2.28]

[1]आगमो धनोपार्जनोपाय: क्रयादि: । [2]तत्राभियुक्तस्तैमुद्धरेत् लिखितादिना प्रमापयेत् । [3] तत्सुतस्य तु सागमा भुक्तिरेव प्रमाणं न त्वागमपरिशोधनमपि तेन कर्तव्यमित्यर्थ: ।

[4]बृहस्पति: -

485 आहर्ता शोधयेद् भुक्तिमागमं चापि संसदि ।
तत्सुतो भुक्तिमेवैकां तत्पुत्रादिर्न किंचन ॥[B 7.39]

[1]आहर्ता अर्जनकर्ता ।

[2]कात्यायन: -

486 येनोपात्तं हि यद्द्रव्यं सो ऽभियुक्तस्तदुद्धरेत् ।
चिरकालोपभोगे ऽपि भुक्तिस्तस्यैव नेष्यते ॥ [K 324]

[1]अर्जकस्य चिरकालभुक्तिरपि स्वागमविभावनं विना न प्रमाणमिष्यत इत्यर्थ: ।

487 यदाहर्ताभियुक्त: स्यात् लेख्यं साक्षी तदा गुरु ।

483[5] प्रमाणत्वमित्यर्थ: : B2 प्रमाणमित्यर्थ: । 483[6] स्मार्ते इति स्मार्ते : B1 स्मार्ते इति स्मार्ते LCM2 स्मार्ते । 486[1] स्वागम ° :LCM2 आगम । 487 स्यात् : B2LCM2 स्यात् । 487 साक्षी : B2M1 साक्ष्यं। 487 गुरु : LCM2 गुरु° ।

भोक्त्रभावे हि भुक्तिस्तु सुते ताभ्यां गरीयसी ॥[K ?]

[1] अर्जक: स्वार्जिते प्रमाणत्वेन लेख्यादिकं दर्शयेत् । [2] अर्जकाभावे तत्सुतस्य लेख्यादितो भुक्तिरेव प्रमाणमित्यर्थ: ।

488 नोपभोगे बलं कार्यमाहर्त्रा तत्सुतेन वा ।
पशुस्त्रीपुरुषादीनामिति धर्मो व्यवस्थित: ॥[K 316]

[1] आदिपदं जङ्गमान्तरपरं । [2] अत्र चेयं व्यवस्था - [3]यदर्जकस्यापि लेख्यसाक्षिविरहे पंचाङ्गो भोग: प्रमाणमेव वाक्यानि तु प्रायिकपरतया बोद्धव्यानि एवं पश्वादिष्वपि केवलभोगप्रामाण्यनिषेध: प्रायिकपरतयैव नेय: ।

[4] याज्ञवल्क्य: -

489 यो ऽभियुक्त: परेत: स्यात् तस्य रिक्थी तमुद्धरेत् ।
न तत्र कारणं भुक्तिरागमेन विना कृता ॥[Y 2.29]

[1] यो भोगे क्रियमाणे एव परेणाभियुक्त: कृतापरिच्छेद: सन् परेत: मृत: तस्य रिक्थी पुत्रादि: तदर्थमागमेनोद्धरेत् साधयेत् । [2] भुक्तिस्तत्र न प्रमाणं पूर्वाभियोगेन सत्प्रतिपक्षितत्वादित्यर्थ: ।

[3] आगमाभावनिश्चये ऽपि षष्ट्याब्दिको भोग: स्वत्वे प्रमाणं [4]अन्यायेनापि यद् भुक्तं पित्रा पूर्वतरैस्त्रिभिरित्यादिस्वरसादिति नव्या: । [5] तन्न - [6] अनागमं तु यो भुङ्क्त इत्यत्र संतानापेक्षयैकवचनमिति व्याचक्षाणेन पारिजातकृता बह्वब्दशतमपि पितापुत्रक्रमेण संतानेन भुज्यमाने ऽपि वस्तुनि भोगात् स्वत्वमनङ्गीकुर्वतास्य सुदूरमुत्सारितत्वादिति ।

[7] अथान्यभोगेन हान्यपवाद: ।

[8] तत्र बृहस्पति: -

490 भुक्तिस्त्रिपुरुषी सिध्येदपरेषां न संशय: ।
अनिवृत्ते सपिण्डत्वे सकुल्यानां न सिध्यति ॥[B 7.43]

491 अस्वामिना तु यद् भुक्तं गृहक्षेत्रापणादिकं ।

---

487 हि : B1 पि । 489[1] °पुत्रादि: : LCM2 पुत्रादिस् । 489[3] स्वत्वे : M1 स्वत्व । 489[4] °भिरित्यादि° : B2M1 भि: इत्यादि । 489[4] नव्या: : CM2 तु नव्या: । 490 सिध्येद् : B1 सिध्येत् ।

सुहृद्बन्धुसकुल्यस्य न तद्भोगेन हीयते ॥ [B 7.44]

492 विवाह्यश्रोत्रियैर्भुक्तं राज्ञामात्यैस्तथैव च ।
सुदीर्घेणापि कालेन तेषां सिध्यति तत्तु न ॥ [B 7.46]

[1]विवाह्यो जामाता ।

[2]मनुः -

493 आधिः सीमा बालधनं निक्षेपोपनिधिः स्त्रियः ।
राजस्वं श्रोत्रियस्वं च नोपभोगेन शाम्यति ॥ [M 8.149]

[1]बृहस्पतिः -

494 असक्तालसरोगार्तिबालभीतप्रवासिनां ।
शासनारूढमन्येन भुक्तं भुक्त्या न हीयते ॥ [B 7.47]

[1]शासनारूढं ताम्रपट्टादिलिखितं ।

[2]कात्यायनः -

495 न भोगं कल्पयेत् स्त्रीषु देवराजधनेषु च ।
बालश्रोत्रियवित्ते च प्राप्ते च पितृतः क्रमात् ॥ [K 330]

496 न स्त्रीणामुपभोगः स्यात् विना लेख्यं कथंचन ।
सुरश्रोत्रियराज्ञां तु तथा बालधने मतः ॥ [B 7.29]

[1]मनुः -

497 सम्प्रीत्या भुज्यमानानि न नश्यन्ति कदाचन ।
धेनुरुष्ट्रो वहन्नश्वो यश्च दम्यः प्रयुज्यते ॥ [M 8.146]

[1]दम्यः दमनार्थं प्रयुज्यते वृषभादिः ।

[2] कात्यायनः -

498 क्रयं शिल्पिषु निक्षिप्तं बन्धान्वाहितयाचितं ।
प्रसह्यमिहरन् मोहाद्धीनो दण्ड्यः स वै भवेत् ॥ [K ?]

[1] क्रीयतेऽनेनेति क्रयो मूल्यं ।

[2]याज्ञवल्क्यः -

---

494 असक्ता° : B1 अशक्ता। 494[1] °पट्टादि° : M1 पट्टकादि । 496 कथंचन : M1 कदाचन । 496 सुर° : B2 तथा । 496[1] मनुः : B2 om । 497

499 आध्यादीनां विहर्तारं धनिनो दापयेद्धनं ।
दण्डं च तत्समं राज्ञे शक्त्यपेक्ष्यमथापि वा ॥[Y 2.26]

[1]तत्समदण्डादामं शक्त्यनुसारेण दण्डयेत् ।

[2]एतेषां च भोगानामप्रमाणतया उक्तानामन्यथासिद्धौ तात्पर्यं ।

[3]अथ लिखितसाक्षिभुक्तीनां बलाबलं ।

[4]तत्र नारदः -

500 लिखितं बलवन्नित्यं जीवन्तस्त्वेव साक्षिणः ।
कालाभिहरणाद् भुक्तिरिति शास्त्रेषु निर्णयः ॥[N 1.75]

501 त्रिविधस्यास्य दृष्टस्य प्रमाणस्य यथाक्रमं ।
पूर्वं पूर्वं गुरु ज्ञेयं भुक्तिरेभ्यो गरीयसी ॥ [N 1.76]

[1]पूर्वं पूर्वमिति - भुक्तितः साक्षी ततो लिखितं गुर्वित्यर्थः । [2] भुक्तिरेभ्यो ऽल्पकालभुक्तिसाक्षिलेख्येभ्यः पंचाङ्गसम्पन्ना भुक्तिर्गरीयसीत्यर्थः । [3]भुक्तिराभ्यां गरीयसीति भवदेवे पाठः । [4]स तु सुगम एव ।

[5]इदं त्विह चिन्त्यते [6] यदयं शास्त्रीयो भोगो भोक्तुः स्वत्वजनको वा प्रमापको वा ।

[7]तत्र भवदेवः - [8]न तावदयं जनकः, [9]याजनादिवदस्य स्वत्वजनकत्वेनाश्रुतत्वात्। [10]नापि प्रमापकः । [11] तथा हि लिङ्गतया वा भोक्तुः स्वत्वमसौ प्रमापयेदनुपपन्नतया वा । [12]नाद्यः, [13] ईदृशभोगेन सह स्वत्वव्याप्तेर्ग्राहिकाभावात् । [14] किंचानेन प्रचीनस्वत्वस्य सत एव प्रमापणे ऽन्यायेनापि यद् भुक्तमित्यादिकं विरुध्येत ।[15] न हि स्वमन्यायेन भुज्यत इति ।[16] अत एव च न द्वितीयो ऽपि । [17] किंचेयमनुपपन्नता स्त्रीराजादिधनगोचरा नास्ति यतो न तत्र कदाचिदपि भोगः प्रमाणमिति । [18]तस्मादेवं वाच्यं [19]यदयं यथोक्तो भोगः पूर्वस्वामिनो भोक्त्रुद्देशेन त्यागात् स्वत्वध्वंसमर्थापयति । [20] न हि सम्भवति - [21] तन्न जहाति परिभोगं चेदृशं तस्मिन् वस्तुनि क्षमत इति । [22] किंच यद्धि यदुद्देशेन त्यज्यते

---

499 धनिनो : CM2 धनिने । 499[2] °तया उक्ता : B2 तयोक्ता । 501[1] ततो : B1 ततः। 501[9] °त्वेनाश्रुत : M1 त्वेन अश्रुत । 501[12] नाद्यः : M1 तत्र नाद्यः । 501[15] स्वम° : B2 स्वत्वम ।

तत्तेन परिगृहीतं तस्य स्वीभवति ।[23] यथा सर्वभूतोद्देशेन त्यक्तं तोयादीति नियमादिदमपि तत एव भोक्तुः स्वीभवति ।[24] स्त्रीराजादिधने तु नैवं,[25] भार्यायाः स्वत्वाविषयतया राजधनस्य चातिविस्तरतया तत्र त्यागस्यैवासम्भवात् ।

[26] भूम्यादौ विंशतिवार्षिको गवादौ दशवार्षिको भोगः पूर्वस्वामिनः स्वत्वध्वंसे प्रमाणमिति यत्कालवैषम्यं भूम्यादेर्महाफलत्वेनातिमहत्त्वास्पदत्वात्तत्र चिरकालेनैव स्वत्वहानिकल्पनात् ।[27] तथा द्रव्यान्तराणां चातथात्वादल्पकालेनापि स्वत्वहानिकल्पनाद्युक्तं ।[28] यच्च भूम्यादावेव कालवैषम्येन भोक्तुः स्वत्वजननं तदपि वचनबलादेव युक्तं[29] यथा तदेव हि जन्म पुत्रस्य पितृधने स्वत्वजनकं न तु पुत्र्या इति ।

[30] अत्र प्रदीपकृतः -[31] यत्र हि मत्कृत्येदानीं नात्र फलसम्भावना तदिदानीं तावत् पर एव भुङ्क्तां पश्चादेतत्सकाशात् सभोगां भुवं ग्रहीष्यामीत्यभिसंधाय भूस्वामी दामते तत्रास्ति विंशत्याब्दिको भोगो न तु स्वामिनस्तदुद्देशेन स्वभूत्याग इति व्यभिचारान्नायं भोगः पूर्वस्वामिनस्तु त्यागे प्रमाणं ।

[32] न चात्र पूर्वस्वामिना त्यागाभावप्रतिज्ञया दिव्यं कार्यं तथा च तद्भङ्गे त्यागनिर्णय इति वाच्यं ।[33] तथापि पूर्वभोगसिद्धस्य पूर्वपरिग्रहस्य त्यागानवधारणाकालीनत्वेन भोक्तुः स्वत्वाजनकतया तद्वैयर्थ्यात् ।[34] किंच भूस्वामी सचेताः किमिति वृथैव संजल्पात् ।[35] नात्र दृष्टमुद्देश्यं तदभावात्[36] नाप्यदृष्टं धर्मशास्त्रेतिकर्तव्यताविरहात् ।[37] महेच्छत्वसुशीलत्वदयालुत्वादिनापि त्यागासम्भवः ।[38] स त्यजन्नपि तैरेव दामत इत्यस्यापि सम्भवात् ।[39] नापि यदुद्देशेन यत्त्यज्यते तत्तस्य स्वमिति नियमः,[40] उद्देश्येनापरिगृहीते व्यभिचारात् ।

[41] अपि च त्यागात् भोक्तुः स्वत्वं स्वरूपमतो ज्ञानाद्वा ।[42] नाद्यः[43] अदृष्टचरत्वात्।[44] द्वितीये च ज्ञानं भोक्तुः स्वामिवचनादिना स्यात्।[45] तथा च तदुद्देशेन मयेदं त्यक्तमिति तत्स्वामिनस्तदभिसंधिपूर्वकाद्वचनात् तत्

501[27] स्वत्व॰: B1 om। 501[28] यच्च : B2 यत्तु। 501[31] ॰मीत्यमि॰: B1M1 मीति अभि LCM2 मि इत्यभि । 501[32] तथा: M1 तत्र । 501[33] भोक्तुः: B2 M1 भोक्तृ। 501[41] त्यागात् : B2LCM2 त्यागाद्। 501[44] ज्ञानं : M1 तज्ज्ञानं। 501[45] तदु॰ : B1LCM2 त्वदु। 501[45] ॰स्वामिनस् : B1CM2 स्वामिनः।

स्यात् [46]इदं च दानमेवेति [47]कृतमुपेक्षानुसरणेन ।
[48]न च यथोक्तक्षमयैव त्यागानुमानं, [49]अत्यक्तेऽपि सौशील्यादिना क्षमासम्भवात् । [50]न चैवं यथोक्तक्षमया भोक्तृस्वत्वानुमानमपि न स्यात्, [51]पूर्वस्वामिनस्तत्र स्वत्वेऽपि सौशील्यादिना तस्यान्यथासिद्धेरिति वाच्यं । [52]षष्ट्यब्दान् यावत् सौशील्यादिना क्षमासम्भवे हि तादृशभोगस्य भोक्तृस्वत्वप्रमापकत्वं स्मृत्युक्तं भज्यते । [53]तस्मात्तादृशो भोगो भोक्तुः स्वत्वे प्रमाणं । [54]तच्च पूर्वागमाद्धोत्पद्यतां स्वामिनो भोक्तुद्देशेन तद्वस्तुत्यागाद्वेत्यत्र न नोग्रह इति ।

[55]याज्ञवल्क्यः -

502 आगमस्तु कृतो येन सोऽभियुक्तस्तमुद्धरेत् ।
न तत्सुतस्तत्सुतो वा भुक्तिस्तत्र गरीयसी ॥[Y 2.28]

[1]यदागमे संशयो भवति तदार्जक एवागमं प्रमापयेत् । [2]तत्सुतस्य तु सागमा भुक्तिरेव प्रमाणमित्यर्थः ।

[3]यदि तु पूर्वमभियुक्तेनापि पित्रागमशुद्धिर्न कृता तदा पुत्रेणागमशुद्धिः कर्तव्यैव । [4]यदाह नारदः -

503 तथारूढविवादस्य प्रेतस्य व्यवहारिणः ।
पुत्रेण सोऽर्थः संशोध्यो न तं भोगो निवर्तयेत् ॥[N 1.93]

[1]तं विवादं भोगो भोगमात्रमागमं विना कृतं न निवर्तयेदित्यर्थः ।

[2]अथानुपभोगेनासिद्धिः ।

[3]तत्र याज्ञवल्क्यः -

504 आगमोऽपि बलं नैव भुक्तिस्तोकापि यत्र नो ॥[Y 2.27cd]

[1]आगमे विद्यमानेऽपि भुक्तिविरहात् तावत्कालं स्वत्वं न सिध्यतीत्यर्थः। [2]अत्र यत्रान्यमुद्दिश्य केनचित् किंचिद्दत्तं तत्रोद्देश्यस्य स्वीकारव्यंजकभोगाभावात् स्वत्वं न निश्चीयत इति न्याय एव मूलं ।
[3]केचित्त्वेवं व्याचक्षते - [4]यत्र वादिप्रतिवादिनो स्वस्वागमबलप्रवृत्तौ आगमयोश्च पूर्वापरभावो न निश्चीयते तत्र यस्य भुक्तिस्तस्यागमो बली-

---

501 [50] भोक्तृ° : M1 भोक्तुः । 502[2] तु : LCM2 om। 502[3] शुद्धिः : LCM2 शुद्धिश्च ।

यान् न त्वन्यस्येत्यर्थः ।

[5]नारदः -

505 विद्यमाने ऽपि लिखिते जीवत्स्वपि च साक्षिषु ।
विशेषतः स्थावरादि यन्न भुक्तं न तत् स्थिरं ॥ [N 1.77]

506 भुज्यमानान् परैरर्थान् यस्तान्मोहादुपेक्षते ।
समक्षं जीवतो ऽप्यस्य तान् भुक्तिः कुरुते वशे ॥ [N 1.78]

[1]न तत् स्थिरं चिरकालवर्तिस्वत्वव्यवस्थापकप्रमाणवन्न भवतीति यावत्।
[2]यः परेण भुज्यमानानर्थान् मोहादुपेक्षते तस्य भोक्तुः पार्श्वे भोगसम्बन्धेन धनान्तरं न लभ्यं भवति स्वयमेवोपेक्षणादित्यर्थः ।

[3]अत्रैव याज्ञवल्क्यः -

507 पश्यतो ऽब्रुवतो भूमेर्हानिर्विंशतिवार्षिकी ।
परेण भुज्यमानाया धनस्य दशवार्षिकी ॥ [Y 2.24]

[1]व्यासः -

508 उपेक्षिता यथा धेनुर्विना पालेन नश्यति ।
पश्यतो ऽन्यैस्तथा भुक्ता भूमिः कालेन हीयते ॥ [Vy 1.76]

509 वर्षाणि विंशतिं यस्य भूमिर्भुक्ता परैरिह ।
सति राज्ञि समर्थस्य तस्य सेह न सिध्यति ॥ [Vy 1.77]

[1]न सिध्यतीति तस्य सा हीयते तदीयत्वेन न निश्चीयते ।

[2]नारदः -

510 प्रत्यक्षपरिभोगात्तु स्वामिनो द्विदशाः समाः ।
आध्यादीन्यपि जीर्यन्ति स्त्रीनरेन्द्रधनादृते ॥ [N 1.82]

[1]द्विदशाः समाः विंशतिवर्षाणि । [2]आध्यादीन्यपीति वरं विषं भुङ्क्ष्वेतिवन्नेयं -

511 आधिः सीमा बालधनं निक्षेपोपनिधिः स्त्रियः ।
राजस्वं श्रोत्रियस्वं च नोपभोगेन शाम्यती- [N 1.81]

[1]त्यादिना नारदवचनेनाधेर्भोगजीर्णतानिषेधात् ।

---

505 च : M1 हि । 505 स्थावरादि : LCM2 स्थावराणां । 507 भूमेर्हानि॰: B1 भूमेः हानि । 510[1] समाः : B2 समा । 511 शाम्यतीत्यादिना : B2 शाम्यति इत्यादिना । 511[1] ॰वचनेनाधे॰ : B1 वचनेन आधे ।

[2] मनुः -

512 आधिश्चोपनिधिश्चोभौ न कालात्ययमर्हतः ।
अवहार्यौ भवेतां तौ दीर्घकालमवस्थितौ ॥ [M 8.145]

[1] आधिर्बन्धः । [2] उपनिधिः प्रीत्या भोगार्थं समर्पितक्षेत्रादि । [3] न कालात्ययमर्हतः मोक्षणकाले अवश्यं मोक्षणीयावित्यर्थः । [4] अत्र हेतुः - [5] अवहार्यावित्यादि । [6] तौ हि चिरकालावस्थितौ भोक्तुरेवावहार्यौ भवेतां भोक्ता कदाचिदपहरेदित्यर्थः ।

[7] बृहस्पतिः -

513 कक्थिभिश्चापरैर्द्रव्यं समक्षं यस्य दीयते ।
अन्यस्य भुंजतः पश्चान्न स तल्लब्धुमर्हति ॥ [B 7.40]

514 पश्यन्नन्यस्य ददतः क्षितिं यो न निवारयेत् ।
स्वामी सतापि लेख्येन पुनस्तां न समाप्नुयात् ॥ [B 7.41]

[1] तथा -

515 भूमेरभुक्तिर्लेख्यस्य यथाकालमदर्शनं ।
अस्मारणं साक्षिणां च स्वार्थहानिकराणि च ॥[B 7.66]

516 तस्माद्यत्नेन कर्तव्यं प्रमाणपरिपालनं ।
तेन कार्याणि सिध्यन्ति स्थावराणि चराणि च ॥[B 7.67]

[1] तथा च हानिवचनानि प्रमाणपरिपालनपराणीति सारं ।

[2] अथ विच्छिन्नभोगनिर्णयः ।

[3] तत्र बृहस्पतिः -

517 छिन्नभोगे गृहक्षेत्रे संदिग्धं यत्र जायते ।
लेख्येन भोगविद्भिर्वा साक्षिभिस्तद्विभावयेत् ॥ [B 7.48]

518 नामाघाटागमं संख्यां दिग्भागं कालमेव च ।
भोगच्छेदनिमित्तं च ये विदुस्तेऽत्र साक्षिणः ॥ [B 7.49]

519 तदुत्पन्नाश्च सामन्ता ये स्युर्देशान्तरस्थिताः ।

---

513 कक्थिभिश्चा॰ : B2 कक्थिभिर्वा। 515 साक्षिणां च : B2 साक्षिणां तु । 517 गृह॰ : B1L गृहे । 518 नामा॰ : LCM2 नाम । 518 तेऽत्र: M1 CM2 तत्र ।

मौलास्तु ते समुद्दिष्टाः प्रष्टव्याः कार्यनिर्णये ॥ [B 7.50]

520 अदृष्टास्ते तु ये ब्रूयुः संदिग्धे समदृष्टयः ।
तत्प्रमाणं प्रकर्तव्यमेवं धर्मो न हीयते ॥ [B 7.51]

521 स्थावरेष्वेतदाख्यातं लाभभोगप्रसाधकं ।
प्रमाणहीनवादे तु निर्देश्या दैविकी क्रिया ॥ [B 7.52]

[1]संदिग्धं संदेहः । [2]नाम चोत्रादेः । [3]आघाटः सीमा । [4] आगमः स्वत्वहेतुः । [5] संख्या भूमेरेव । [6] दिग्भागो ऽपि तस्या एव । [7] काल आगमकालः । [8] प्रमाणहीनवादे दृष्टप्रमाणहीनवादे ।

[9] इति भुक्तिः ।

---

521 स्थावरेष्वेतदा° : LCM2 स्थावरेषु तदा। 521 दैविकी : CM2 दैवकी । 521[3] आघाटः : LCM2 घाटः। 521[6] तस्या एव : B2 तस्याः । 521[9] इति : B1B2M1 om ।

(521) [10] अथ युक्तिः ।

[11] तत्र बृहस्पतिः -

522 असाक्षिके चिरकृते पृच्छेदुत्तरसाक्षिणः ।
शपथान्वा प्रयुंजीत उपधां वा प्रयोजयेत् ॥[B 7.68]

[1] उपधा युक्तिः ।

[2]नारदः -

523 प्रमादाद्धनिनो यत्र न स्याल्लेख्यं न साक्षिणः ।
अर्थं चापह्नुते वादी तत्रोक्तस्त्रिविधो विधिः ॥ [N 1.235]

524 चोदना प्रतिकालं च युक्तिलेशस्तथैव च ।
तृतीयः शपथः प्रोक्तस्तैरेवं साधयेत् क्रमात् ॥[N 1.236]

525 अभीक्ष्णं चोद्यमानो ऽपि प्रतिहन्यान्न तद्वचः ।
त्रिचतुःपंचकृत्वो वा परतो ऽर्थं स दापयेत् ॥ [N 1.237]

[1] चोदना प्रतिकालं अस्वकं मे धनं देहीति वारंवारं प्रेरणा ।

[2] कात्यायनः -

526 श्राव्यमाणो ऽर्थिना यत्र यो ह्यर्थो न विघातितः ।
दानकाले ऽथवा तूष्णीं स्थितः सो ऽर्थोऽनुमोदितः ॥[K 144]

527 अर्थिनैवान्वितो यत्र विघातं न प्रयोजयेत् ।
त्रिचतुःपंचकृत्वो वा परतस्तद्दृणी भवेत् ॥ [K 336]

528 स्वामिना नृपतिर्विप्रं क्रमेणोक्तं प्रदापयेत् ।
ततो ऽन्यं दापयेत्पूर्वं सकृदुक्ताविघातिनं ॥ [K ?]

[1]स्वामिना उत्तमर्णेन उक्तं धनं मे देहीति याचितं विप्रमविघातिनं क्रमेण दापयेत् । [2] विप्रान्यं तु तादृशक्रमेणापीत्यर्थः । [3] असकृत्प्रार्थितमविहतं धनं विप्रो दाप्यः सकृत्प्रार्थितमप्यविहतमविप्रो दाप्य इत्यर्थ इत्यन्ये ।

[4]नारदः -

---

524 प्रोक्तस् : B2 प्रोक्तः । 527 °वान्वितो : B1 वार्थितो ।

529 चोदनाप्रतिघाते तु युक्तिलेशैस्तमन्वियात् ।
देशकालार्थसम्बन्धपरिमाणक्रियादिभिः ॥ [N 1.238]

[1] अस्यार्थः – [2]यदाधमर्णश्चोदनाप्रतिघातं करोति नाहं धारयामीति तदानुमानापरव्यपदेशाभिर्युक्तिभिर्निर्णयः कार्यस्[3]तद्यथा – यस्मिन् देशे यस्मिन् काले येन अर्थेन प्रयोजनेन उत्तमर्णेनर्णिकस्य ऋणग्रहणाभियोगः कृतः तत्र देशादौ तेन प्रयोजनेन तस्य ऋणग्रहणमसम्भावितं चेत्तदा युक्त्या निर्णयो भवति । [4] एवं यस्य शतसम्भावनापि नास्ति स यथैवमाह ममानेन सहस्रं गृहीतं तत्रापि परिमाणयुक्त्या भवति निर्णयः । [5] एवमधमर्णक्रियादयो ऽपि यत्र प्रतिमासं कलादानरूपाः प्रतीयन्ते तत्रापि युक्त्या निर्णीयते ।

[6] शपथस्त्वतो वक्ष्यते ।

[7] एवं नारदेन एकदेशविभावनेन सर्वस्यैव विवादविषयस्य यद्देयत्वमुक्तं –

530 अनेकार्थाभियुक्तेन सर्वार्थव्यपलापिना ।
विभावितैकदेशेन देयं तदपि युज्यत इति ॥ [N ?]

[1]तस्य यत्रैकभाजनस्थमनेकं सुवर्णरजतादिकं गृहीतं तत्रैकद्रव्यग्रहणविभावनया सकलमेव द्रव्यं देयं भवतीति न विषयः, [2]तत्राविभावितद्रव्यसत्त्वे प्रमाणाभावात् । [3] न ह्यभियोक्तृवचनमात्रात्तत्सिद्धिः, [4] मिथ्यात्वस्यापि सम्भवात् । [5] न च क्रियान्तरेण साक्ष्यादिनाभियोक्त्रा तदा तत्र तदवस्थानं ज्ञाप्यं, [6] तथा सति क्रियान्तरेणैव तन्निर्णयाद्युक्तेरप्रयोजकत्वापत्तेः । [7] किंतु यत्रैकग्रहणं तदितरग्रहणव्याप्यं भवति तद्विषयः । [8] यद्वा यथादिप्तानां मध्ये एकमपि विभावयसि तदा सकलमेव मया दातव्यमिति यत्र वादिनो ऽभ्युपगमः स तस्य विषयः ।

[9]नारदः –

531 असादिप्रत्ययास्त्वन्ये षड्विवादाः प्रकीर्तिताः ।

---

529 °घाते तु : B1 घातेषु । 529[1] कार्यस् : M1 कार्यः । 529[2] येन अर्थेन : B2M1 येनार्थेन । 529[2] उत्तमर्णेनर्णिकस्य : B1 उत्तमर्णेनाधमर्णकस्य । 530 °युक्तेन : B1 योगेषु । 530 युज्यत : B2 युज्यते । 530[5] तदा : B1 om । 530[8] मया : B2 om ।

लक्षणान्येव साक्षित्वे तेषामाहुर्मनीषिण: ॥ [N 1.172]

532 उल्काहस्तोऽग्निदो ज्ञेय: शस्त्रपाणिश्च घातक: ।
केशाकेशिगृहीतश्च युगपत् पारदारिक: ॥ [N 1.173]

533 कुद्दालपाणिर्विज्ञेय: सेतुभेत्ता समीपग: ।
तथा कुठारहस्तश्च वनच्छेत्ता प्रकीर्तित: ॥ [N 1.174]

534 प्रत्यक्षचिह्नैर्विज्ञेयो दण्डपारुष्यकृन्नर: ।
असाक्षिप्रत्यया ह्येते पारुष्ये तु परीक्षणं ॥ [N 1.175]

[1]साक्षित्वे साक्षिस्थाने । [2]साक्षिस्थानत्वमेतेषामविनाभावेन । [3]प्रत्यक्षचिह्नै: रुधिराक्तखड्गादिभि: । [4]पारुष्ये वाक्पारुष्ये ।

[5]कात्यायन: -

535 दानं प्रज्ञापनाभेद: सम्प्रयोगक्रिया च या ।
वित्तापनयनं चैव हेतवो हि विभावका: ॥ [K 337]

[1]दानं उत्कोचदानं । [2]प्रज्ञापनाभेद: येन चिह्नेन ज्ञायते तदन्यथाकरणं । [3]सम्प्रयोगक्रिया विषयान्तरे तदधिकलोभोत्पादनं ।

[4]शङ्ख: -

536 केशाकेशिग्रहणात् पारदारिक: उल्काहस्तोऽग्निद: शस्त्रपा-
537 णिर्घातिको लोप्त्रहस्तश्चौर: । क्षेपेऽष्टशतं यथास्वरूपं वा रुधिरस्रावे प्रहारे चाभिव्यक्ते न साक्षिण: प्रत्यक्षचिह्नाभिव्यक्ते चाष्टशतं ॥ [ŚL 328 + ?]

[1]क्षेपे पूर्वोक्तलिङ्गनिश्चितप्रहारापह्नवे । [2]अष्टशतं पणानां दण्ड इति शेष: ।

[3]एताश्च युक्तयो दुरवधारणानन्यथासिद्धिमूलकानुमानरूपतया न सर्वसाधारण्य: किंत्वतिनिपुणस्थेयमात्रविश्रान्ता। [4]अयमेव च प्रत्यक्षनिर्णयोऽप्युच्यत इति ।

---

536 लोप्त्र° : B1B2 लोष्ट्र । 537[4] च : B1 हि ।

(537) [5] अथ दिव्यानि ।

[6] तत्र नारदः -

538 युक्तिष्वप्यसमर्थासु शपथैरेनमर्दयेत् ।
अर्थकालबलापेक्षामग्न्यम्बुसुकृतादिभिः ॥ [N 1.239]

539 घटोऽग्निरुदकं चैव विषं कोशश्च पंचमः ।
उक्तान्येतानि दिव्यानि विशुद्ध्यर्थं महात्मभिः ॥ [N 1.252]

540 संदिग्धेष्वभियुक्तानां परीक्षार्थं महात्मनां ।
प्रोक्तानि नारदेनेह सत्यानृतविशुद्धये ॥ [N 1.253]

[1] अर्दयेत् पीडयेत् । [2] अग्नीति अग्निर्मे नोपस्थास्यति जलं मामपकर्षयिष्यति इत्यग्निजलयोर्हस्तप्रक्षेपः ।[3] सुकृतं मे नङ्क्ष्यतीत्यादिः शपथः ।

[4]नन्वग्न्यादिकमिह दिव्यं ग्राह्यं तस्य शपथान्यत्वादिति वक्ष्यते ।

[5]नन्वन्यान्यपि दिव्यानि बृहस्पतिनोक्तानि । [6] यदाह -

541 घटोऽग्निरुदकं चैव विषं कोशश्च पंचमः ।
षष्ठं च तण्डुलाः प्रोक्तं सप्तमं तप्तमाषकं ॥ [B 8.3]

542 अष्टमं फालमित्युक्तं धर्मजं नवमं भवेत् ।
दिव्यान्येतानि सर्वाणि निर्दिष्टानि स्वयम्भुवा ॥ [B 8.4]

[1] तथा -

543 अहमुद्देशतो वच्मि संदिग्धार्थविशुद्धये ।
देशकालार्थसंख्याभिः संयुक्तान्यनुपूर्वशः ॥ [B 8.5cdef]

544 अपराधानुरूपेण साध्वसाधुविवक्षया ।
शास्त्रोक्तेनैव विधिना प्रदातव्यानि नान्यथा ॥ [B 8.6]

[1] कोशपानं स्वप्रसृतित्रयमितत्रिशूलादिस्नपनपानं [2]सत्यं किंतु याज्ञवल्क्येन प्रतिविहितं । [3]यदाह -

---

538 शपथैरेन॰ : B2LCM2 शपथैरेव । 541 प्रोक्तं : LCM2 प्रोक्ताः । 541 ॰माषकं : B1B2माषकः । 542[1] तथा : B1CM2 om । 544[1] स्व॰ :LCM2 om । 544[1] ॰स्नपन॰: B1 स्नपनपयः(?) M1 स्नान । 544[3] यदाह : LCM2 om ।

545 तुलाऽग्न्यापो विषं चैव दिव्यानीह विशुद्धये ।
महाभियोगेष्वेतानि शीर्षकस्थे ऽभियोक्तरि ॥ [Y 2.95]

[1] तथा च एतानि महाभियोगेष्वेव नान्यत्रेति नियम्यते । [2] न पुनरिमान्येव दिव्यानीति । [3] महाभियोगे ऽपि न सर्वत्र किंतु शीर्षकस्थे ऽभियोक्तरि । [4] शीर्षं शिरः तच्च दिव्यकर्तुर्जयपदो स्वदण्डस्वीकारः ।

546 तुलाधारणविद्वद्भिरभियुक्तस्तुलास्थितः ।
प्रतिमानसमीभूतो लेख्यं कृत्वावधारितः ॥ [Y 2.100]

547 त्वं तुले सत्यधामासि पुरा देवैर्विनिर्मिता ।
तत्सत्यं वद कल्याणि संशयान्मां विमोचय ॥ [Y 2.101]

548 यद्यस्मिन् पापकृन्मातस्ततो मां त्वमधो नय ।
शुद्धश्चेद् गमयोर्ध्वं मां तुलामित्यभिमन्त्रयेत् ॥ [Y 2.102]

549 तुलितो यदि वर्धेत विशुद्धः स्यान्न संशयः ।
समो वा हीयमानो वा न विशुद्धो भवेन्नरः ॥ [N 1.283]

[1] पितामहः -

550 चतुर्हस्ता तुला कार्या पादौ कार्यौ तथाविधौ ।
अन्तरं तु तयोर्हस्तौ भवेदध्यर्धमेव वा ॥ [Pi 87]

[1] स्मृतिसमुच्चये तु -

551 त्वमेव घट जानीषे न विदुर्यानि मानवाः । [Vi 10.10cd = Pi 102ab]
व्यवहाराभिशस्तो ऽयं मानुषस्तोल्यते त्वयि । [Vi 10.11ab = Pi 102cd]

552 तदेनं संशयादस्माद्धर्मतस्त्रातुमर्हसि ॥ [Vi 10.11cd = Pi 103]

553 ब्रह्मघ्नो ये स्मृता लोका ये लोकाः कूटसाक्षिणः ।
तुलाधारस्य ते लोकास्तुलां धारयतो मृषा ॥ [Vi 10.9]

[1] व्यासः -

554 अधोगतिर्न विशुद्धः शुद्ध ऊर्ध्वगतिः सदा ।
समो ऽपि न विशुद्धः स्यात् एषा शुद्धिरुदाहृता ॥ [Vy 2.17]

555 कक्षाछेदे तुलाभङ्गे घटकर्कटयोस्तथा ।

545[3] ऽपि : B2 हि । 548 यद्यस्मिन् : B1 यद्यस्मि । 553 लोका : LCM2 लोकाः । 554 स्यात् : B2LCM2 स्याद् ।

रज्जुच्छेदे ऽक्षामङ्गे च दद्याच्छुद्धिं पुनः पुनः ।। [Vy 2.19]

[1] तुलेति - अधिवासनदिने तुलितो ऽभिशस्तः कृतोपवासादिरुत्तरदिने प्रातरभिमन्त्र्य तुलनीयो यद्यूर्ध्वगः तदा जयी नो चेद् भङ्गीति वर्तुलार्थः ।

556 करौ विमृदितव्रीहीर्लक्षयित्वा ततो न्यसेत् ।
सप्ताश्वत्थस्य पत्त्राणि तावत्सूत्रेण वेष्टयेत् ।। [Y 2.103]

557 शम्यक्षतं तथा दूर्वां दत्त्वा पत्त्रेषु विन्यसेत् ।। [Y ?]

558 त्वमग्ने सर्वभूतानामन्तश्चरसि पावक ।
साक्षिवत् पुण्यपापेभ्यो ब्रूहि सत्यं करे मम ।। [Y 2.104]

559 तस्येत्युक्तवतो लोहं पंचाशत्पलिकं समं ।
अग्निवर्णं न्यसेत् पिण्डं हस्तयोरुभयोरपि ।। [Y 2.105]

560 स तमादाय सप्तैव मण्डलानि शनैर्व्रजेत् ।
षोडशाङ्गुलकं ज्ञेयं मण्डलं तावदन्तरं ।। [Y 2.106]

561 मुक्ताग्निर्मृदितव्रीहिरदग्धः शुद्धिमाप्नुयात् ।
अन्तरा पतिते पिण्डे संदेहे वा पुनर्हरेत् ।। [Y 2.107]

562 अग्निवर्णमियं पिण्डं सस्फुलिङ्गं सुरक्षितं ।
पंचाशत्पलिकं भूयः कारयित्वा शुचिर्द्विजः ।। [N 1.289]

563 तृतीयतापे तप्यन्तं ब्रूयात् सत्यपुरस्कृतः ।
शृण्विमं मानवं धर्मं लोकपालैरधिष्ठितं ।। [N 1.290]

564 त्वमग्ने सर्वभूतानामन्तश्चरसि साक्षिवत् ।
त्वमेवाग्ने विजानीषे न विदुर्यानि मानवाः ।। [Vi 11.11 = Pi 126]

565 व्यवहाराभिशस्तो ऽयं मानवः शुद्धिमिच्छति ।
तदेनं संशयादस्माद्धर्मतस्त्रातुमर्हसि ।। [Vi 11.12 = Pi 127]

[1] पितामहः -

555[1] °गः : B2LCM2 गस् । 557 शम्य° : B1 शाल्य । 561 मुक्ताग्निर्मृ° : LCM2 मुक्त्वाग्निं मृ । 562 °वर्णमियं : B1 वर्णमयः । 562 सुरक्षितं : B1 सुरंजितं । 562 शुचिर्द्विजः : LCM2 ततो द्विजः । 565[1] पितामहः : B2 व्यासः ।

566 त्वरमाणो न गच्छेत्तु स्वस्थो गच्छेच्छनैः शनैः ।
न मण्डलमतिक्रामेन्नान्तरा स्थापयेत्पदं ॥[Pi 129]
567 अष्टमं मण्डलं गत्वा नवमे निदिपेद् बुधः ॥[Pi 130ab]

[1] याज्ञवल्क्यः -

568 प्रस्खलत्यभियुक्तश्चेत् स्थानादन्यद्दाह चेत् ।
न तं दग्धं विदुर्देवास्तस्य भूयोऽपि दापयेत् ॥[K 441]

569 ततः शुद्धस्तयोः प्रास्येद् व्रीहीनथ यवानपि ।[Pi 130cd]
570 निर्विशेषेण चैषां तु हस्ताभ्यां मर्दने कृते ।
निर्विकारे दिनस्यान्ते शुद्धिं तस्य विनिर्दिशेत् ॥ [Pi 131]

[1] विष्णुः -

571 यो हस्तयोः क्वचिद्दग्धस्तमशुद्धं विनिर्दिशेत् ।
न दग्धः सर्वथा यस्तु स विशुद्धो भवेन्नरः ॥ [Vi 11.8]

[1]पूर्वदिने कृतोपवासाधिवासनादिरभिशस्त उत्तरदिने प्रथममण्डले स्थितो हस्तौ परीक्ष्य तयोर्न्यस्ताश्वत्थसप्तपत्त्रयोस्तावत्सूत्रवेष्टितयोर्यवदूर्वाशमीजुषोर्न्यस्तलोहयोराद्यमण्डले ततः क्रमेण मण्डलेषु षट्सु पादौ दत्त्वा अष्टमे स्थितो नवमे लोहं दिपेत् । [2] मण्डलातिक्रमादिसंशये पुनराहरेदिति समुदायार्थः ।

572 सत्येन माभिरक्ष त्वं वरुणेत्यभिगाय कं ।
नाभिदघ्नोदकस्थस्य गृहीत्वोरुं जलं विशेत् ॥[Y 2.108]
573 समकालमिषुं मुक्तमानीयान्यो जवी नरः ।
गते तस्मिन्निमग्नाङ्गं पश्येच्छेच्छुद्धिमाप्नुयात् ॥[Y 2.109]

574 अन्यथा न विशुद्धः स्यादेकाङ्गस्यापि दर्शनात् ।
स्थानाद्वान्यत्र गमनाद्यस्मिन् पूर्वं निवेशयेत् ॥[N 1.312 = Pi 145]

[1] सत्येनेति -

---

566 °क्रामेन् : B2M1 क्रामेत् । 568 °न्यद्दाह चेत् : B1 न्यत्तु दाहयेत् M: न्यत्र दह्यते । 571[1] दत्त्वा अष्टमे : B2 दत्त्वाऽष्टमे । 571[2] समुदायार्थः : B1 समुच्चयार्थः । 572 सत्येन : M1 अथ जलः (?) सत्येन । 574 निवेशयेत् : B2 निवेशितः ।

575 त्वमम्भ: सर्वभूतानामन्तश्चरसि साक्षिवत् ।
त्वमेवाम्भो विजानीषे न विदुर्यानि मानवा: ॥[Vi 12.7]

576 व्यवहाराभिशस्तोऽयं मानुषस्त्वयि मज्जति ।
तदेनं संशयादस्माद्धर्मतस्त्रातुमर्हसि ॥[Vi 12.8]

[1]तथा -

577 मध्यमं शरमादाय पुरुषोऽन्यस्तथाविध: ।
प्रत्यागच्छेत्तु वेगेन यत: स पुरुषो धृत: ॥[N 1.310]

578 आगतस्तु शरग्राही न पश्यति यदा जले ।
अन्तर्जलगतं सम्यक् तदा शुद्धिं विनिर्दिशेत् ॥[N 1.311 = Pi 144]

579 आनीते मध्यमे बाणे मग्नाङ्ग: शुचितामियात् ॥[B 8.61ab]

[1]कात्यायन: -

580 शिरोमात्रं तु दृश्येत न कर्णौ नापि नासिका ।
अप्सु प्रवेशने यस्य शुद्धं तमपि निर्दिशेत् ॥[K 444]

581 निमज्योत्प्लवते यस्तु दृष्टश्चेत् प्राणिना नर: ।
पुनस्तत्र निमज्योऽसावङ्गचिह्नविभावित: ॥[K 445]

[1]नाभिमात्रस्थिरजलस्थस्य ऊरू धृत्वाभिशस्तो मज्जयेत् । [2]तदैव बलवानिषुं क्षिपेत् तं च बलवानन्य आनयेत् । [3]तदभ्यन्तर एव यदि मग्न: सकल एकाङ्गेनापि वा उन्मज्जयेत् पूर्वस्थानं वा त्यजेत् तदा मङ्गीनो चेन्नेत्यर्थ: ।

582 त्वं विष ब्रह्मण: पुत्र: सत्यधर्मव्यवस्थित: ।
त्रायस्वास्मानभिशापात् सत्येन भव मेऽमृतं ॥ [Y 2.110]

583 एवमुक्त्वा विषं शार्ङ्गं भक्षयेद्धिमशैलजं ।
यस्य रोगैर्विना जीर्णं शुद्धिं तस्य विनिर्दिशेत् ॥ [Y 2.111]

[1]त्वमिति - शार्ङ्गनामकं विषं यथाविधिखादितमविकारि चेत्तदाभिशस्तो जयीत्यर्थ: ।

---

581 निमज्यो : B1 नियोज्यो । 581[1] °स्थस्य : LCM2 स्थितस्य । 582 त्वं : M1 अथ विष:(?) त्वं। 583[1] जयीत्यर्थ: : M1 जयीत्यर्थ: इति विषं अथ कोश: ।

[2]कोशपानमाह देवानित्यादि सुगमं -

584 देवानुग्रान् समभ्यर्च्य तत्स्नानोदकमाहरेत् ।
संश्राव्य पाययेत्तस्माज्जलात्तु प्रसृतित्रयं ॥ [Y 2.112]

585 आ चतुर्दशकादह्नो यस्य नो राजदैवकं ।
व्यसनं जायते घोरं स शुद्धः स्यान्न संशयः ॥ [Y 2.113]

[1]पितामहः -

586 शिरोवादिविहीनानि दिव्यानि परिवर्जयेत् ।
चत्वारि तु घटादीनि कोशश्चैवाशिराः स्मृतः ॥ [Pi 38]

[1]तथा -

587 न कश्चिदभियोक्तारं दिव्येन विनियोजयेत् ।
अभियुक्ताय दातव्यं दिव्यं दिव्यविशारदैः ॥ [K 244=411]

[1]नृपाज्ञायामत्रापि न शिरोऽपेक्षा इत्याह नारदः -

588 शिरोऽवस्थायिनि नरे अभियोक्तर्युपस्थिते ।
दिव्यप्रदानमुदितमन्यत्र नृपशासनात् ॥ [N 1.269]

[1]याज्ञवल्क्यः -

589 रुच्या वान्यतरः कुर्यादितरो वर्तयेच्छिरः ।
विनापि शीर्षकं कुर्यात् नृपद्रोहे च पातके ॥ [Y 2.96]

[1]अभियोक्त्रभियुक्तयोर्मिथः सम्प्रतिपत्त्याभियोक्तैव वा कुर्यात्, [2]दिव्यरूपप्रमाणस्य भावाभावाविशेषगोचरत्वात् ।

[3]कालिकापुराणे -

590 परदाराभिशापे च चौर्यागम्यागमेषु च ।
महापातकशस्तेषु स्याद्दिव्यं नृपशासने ॥

591 विप्रतिपत्तौ विवादे पणस्य स्थापने कृते ।
तत्रैव स्थापयेद्दिव्यं शिरःपूर्वं महीपतिः ॥

592 परदाराभिगमने बहवो यत्र वादिनः ।

583[2] देवानित्यादि सुगमं : B2LCM2 after Y2.112 । 586[1] तथा : B1 om । 587 दिव्येन वि० : B1 पुनर्दिव्ये । 589 कुर्यात् : B2CM2 कुर्यान् । 590 °शस्तेषु : B1 शस्ते च ।

शिरोहीनं भवेद्दिव्यं आत्मसंशुद्धिकारणात् ॥
[1]विप्रतिपत्तौ परदाराभिशापविषयायां । [2]विवादे ऋणादौ । [3]पर-
दाराभिगमन इति चौर्यादीनामप्युपलक्षणं ।

[4]विष्णुः -

593 राजद्रोहसाहसे च विना शीर्षप्रवर्तनात् ॥ [Vi 9.22]

[1]पितामहः -

594 राजभिः शङ्कितानां च निर्दिष्टानां च दस्युभिः ।
आत्मशुद्धिपराणां च दिव्यं देयं शिरो विना ॥ [Pi ?]

[1]नारदः -

595 अशिरांसि च दिव्यानि राजभृत्येषु दापयेत् ॥ [N 1.270ab]

[1]बृहस्पतिः -

596 स्नेहात् क्रोधात् लोभतो वा भेदमायान्ति साक्षिणः ।
विधिदृष्टस्य दिव्यस्य न भेदो जायते क्वचित् ॥ [B 8.14]

[1]पितामहः -

597 प्रत्यक्षं दापयेद्दिव्यं राजा वाधिकृतोऽपि वा ।
ब्राह्मणानां श्रुतवतां प्रकृतीनां तथैव च ॥ [Pi 51]
[1]ब्राह्मणानां प्रकृतीनां च दिव्यं प्रत्यक्षं दापयेत् ।

[2]विष्णुकात्यायनौ -

598 सचेलस्नातमाहूय सूर्योदय उपोषितं ।
कारयेत् सर्वदिव्यानि नृपब्राह्मणसंनिधौ ॥ [Vi 9.33 = K ?]
[1]पूर्वेद्युरुपोषितं सचेलस्नातं दिव्यकारिणं उदिते सूर्ये नृपस्य सभ्यानां च
ब्राह्मणानां संनिधौ सर्वाणि दिव्यानि कारयेत् प्राड्विवाकः ।

[2]पितामहः -

599 त्रिरात्रोपोषिताय वैकरात्रोपोषिताय वा ।

---

592 आत्मसंशुद्धि° : LCM2 आत्मनः शुद्धि ।596 क्रोधात् : B2 क्रोधाल् ।
597[1] विष्णु° :LCM2 अत्र विष्णु ।

नित्यं दिव्यानि देयानि शुचये चार्द्रवाससे ॥ [Pi 53]

[1]अयं चोपवासस्य त्रिरात्रैकरात्रिविकल्प: शक्त्यपेक्षया महाभियोगाल्पा-भियोगापेक्षया व्यवस्थित: ।

[2]तथा -

600 दिव्येषु सर्वकार्याणि प्राड्विवाक: समाचरेत् ।
अध्वरेषु यथाध्वर्यु: सोपवासो नृपाज्ञया ॥ [Pi 54]

[1] अयं च प्राड्विवाकस्योपवासो दिव्याङ्गदेवपूजाधिकारित्वपक्षे ।

[2] अत्र यद्यपि सूर्योदय इत्यविशेषेणोक्तं तथापि शिष्टाचाराद्रविवारा-दर: ।

[3] तथा -

601 पूर्वाह्णे ऽग्निपरीक्षा स्यात् पूर्वाह्णे तु घटो भवेत् ।
मध्याह्णे तु जलं देयं धर्मतत्त्वमभीप्सिता ॥ [Pi 45]

602 दिवसस्य तु पूर्वाह्णे कोशशुद्धिर्विधीयते ।
रात्रौ तु पश्चिमे यामे विषं देयं सुशीतले ॥ [Pi 46]

[1] अनुक्तवेलाविशेषाणां तु तण्डुलादीनां पूर्वाह्ण एव दानं -

603 पूर्वाह्णे सर्वदिव्यानां प्रदानं परिकीर्तितमिति [N 1.268cd]

[1] नारदस्मृते: ।

[2] दिव्यानां देशमाह कात्यायन: -

604 इन्द्रस्थाने ऽभिशस्तानां महापातकिनां नृणां ।
नृपद्रोहप्रवृत्तानां राजद्वारे प्रयोजयेत् ॥ [K 434]

605 प्रतिलोमप्रभूतानां दिव्यं देयं चतुष्पथे ।
अतो ऽन्येषु च कार्येषु सभास्थाने विदुर्बुधा: ॥ [K 435]

[1] इन्द्रस्थानमिन्द्रध्वजस्थानं ।

---

599 दिव्यानि देयानि : B2L देयानि दिव्यानि । 600[1] °पूजाधिकारि° : M1 पूजाकारि । 601 °तत्त्व° : B1 सत्व । 602 पूर्वाह्णे : B1 पूर्वार्द्धे । 605 °प्रभूतानां : B2 प्रवृत्तानां M1 प्रसूतानां । 605 चतुष्पथे : LCM2 चतु:-पथे ।

[2] <u>बृहस्पतिः</u> -

606 यथोक्तविधिना देयं दिव्यं दिव्यविशारदैः ।
अयथोक्तप्रदत्तं तु न शक्तं साध्यसाधने ॥ [B 8.15]

607 अदेशकालदत्तानि बहिर्वादिकृतानि च ।
व्यभिचारं सदा त्वेवं कुर्वन्तीह न संशयः ॥ [B 8.16]

[1] बहिर्वादिकृतं अभियोक्तारं विना कृतं । [2] एतच्च प्रायिकं, [3] आत्मशुद्धिपराणामभियोक्तारं विनापि दिव्यविधानात् ।

[4] <u>कात्यायनः</u> -

608 साधयेत्तु पुनः साध्यं व्याघाते साधनस्य हि ।
दत्तान्यपि यथोक्तानि राजा दिव्यानि वर्जयेत् ।
मूर्खैर्लुब्धैश्च दुष्टैश्च पुनर्देयानि तानि वै ॥ [K 438]

[1] कथमपि पूर्वदिव्याप्रामाण्यशङ्कायां पुनर्दिव्यं देयमित्यर्थः ।

[2] अथ दिव्यविशेषे कालविशेषमाह <u>पितामहः</u> -

609 यो यस्य विहितः कालो विधिर्यस्य च यो यथा ।
तं प्रवक्ष्यामि तत्त्वेन वादिनश्च बलाबलं ॥ [Pi 32]

610 चैत्रो मार्गशिराश्चैव वैशाखश्च तथैव हि ।
एते साधारणा मासा दिव्यानामविरोधिनः ॥ [Pi 33]

611 घटः सर्वर्तुकः प्रोक्तो वाते वाति विवर्जयेत् । [Pi 34]

612 अग्निः शिशिरहेमन्तवर्षासु परिकीर्तितः ।
शरद्ग्रीष्मे तु सलिलं हेमन्ते शिशिरे विषं ॥ [Pi 35]

[1] <u>नारदः</u> -

613 न शीते तोयशुद्धिः स्यान्नोष्णकालेऽग्निशोधनं ।
न प्रावृषि विषं दद्यात् प्रवाते न तुलां नृपः ॥ [N 1.259]

[1] अत्र शीतशब्देन हेमन्तशिशिरवर्षाणां ग्रहणं । [2] उष्णशब्देन शरद्ग्रीष्मयोर्ग्रहणं ।

[3] <u>ज्योतिषे</u> -

---

606 °दत्तं : M1 दानात् LCM2 दानं । 607[1] अभियोक्तारं : LCM2 यत्तु अभियोक्तारं । 607 [2] एतच्च : LCM2 एतत् । 608 साधयेत् : B1 साध्यते । 608 देयमित्यर्थः : LCM2 देयं । 612 तु : LCM2 षु ।

614 सिंहस्थे मकरस्थे च जीवे चास्तमिते भृगौ ।
मलमासे न कर्तव्या परीक्षा जयकाङ्क्षिणां ॥
615 रविशुद्धौ गुरोश्चैव न शुक्रे ऽस्तंगते पुनः ।
सिंहस्थे च रवौ नैव परीक्षा शस्यते बुधैः ॥
616 नाष्टम्यां न चतुर्दश्यां प्रायश्चित्तं परीक्षणं ।
न परीक्षाधिवासश्च शनिभौमदिने भवेत् ॥

[1] अथ वर्णविशेषे दिव्यविशेषमाह नारदः -

617 ब्राह्मणस्य घटो देयः क्षत्रियस्य हुताशनः ।[N 1.334cd]
618 वैश्यस्य सलिलं देयं शूद्रस्य विषमेव च ॥[N 1.335ab]
619 साधारणः समस्तानां कोशः प्रोक्तो मनीषिभिः ।
विषवर्जं ब्राह्मणस्य सर्वेषां वा तुला स्मृता ॥ [NQ 6.6]

[1] कात्यायनः -

620 राजन्ये ऽग्निं घटं विप्रे वैश्ये तोयं नियोजयेत् ।
सर्वेषु सर्वदिव्यं वा विषवर्जं द्विजोत्तमे ॥[K 422]

[1] याज्ञवल्क्यः -

621 तुला स्त्रीबालवृद्धार्तपङ्गुब्राह्मणरोगिणां ।
अग्निर्जलं वा शूद्रस्य यवाः सप्त विषस्य वा ॥ [Y 2.98]

[1] कात्यायनः -

622 गोरक्षकान् वाणिजकान् तथा कारुकुशीलवान् ।
प्रेष्यान् वार्द्धुषिकांश्चैव ग्राहयेच्छूद्रवद् द्विजान् ॥ [K 423]

[1] नारदः -

623 क्लीबातुरान् सत्त्वहीनान् परितापार्दितान्नरान् ।
बालवृद्धातुरादींश्च परीक्षेत घटे सदा ॥ [NQ 6.8]
624 नार्तानां तोयशुद्धिः स्यान्न विषं पित्तरोगिणां ।
श्वित्र्यन्धकुनखादीनां नाग्निकार्यं विधीयते ॥ [N 1.255]

---

614 °काङ्क्षिणां : B2M1 कांक्षिणा । 616 प्रायश्चित्तं परीक्षणं : B2 प्रायश्चित्तपरीक्षणे ।616 °धिवासश्च : B1 विधानं च LCM2 विवादश्च । 624 स्यान् : B2M1 स्यात् । 624 श्वित्र्यन्ध° : LCM2 मूकान्ध ।

625 न मज्जनीयं स्त्रीबालं धर्मशास्त्रविशारदैः ।
रोगिणो ये च वृद्धाः स्युः पुमांसो ये च दुर्बलाः ॥[N 1.313]

626 निरुत्साहान् व्याधिजुष्टान् नार्तांस्तोये निमज्जयेत् ।
सद्यो म्रियन्ते मज्जन्तः स्वल्पप्राणा हि ते स्मृताः ॥ [N 1.314]

627 साहसेऽप्यागतानेतान्नैव तोये निमज्जयेत् ।
न वापि हारयेदग्निं न विषेण विशोधयेत् ॥ [N 1.315]

[1]कात्यायनः -

628 न लोहशिल्पिनामग्निं सलिलं नाम्बुसेविनां ।
मन्त्रयोगविदां चैव विषं दद्यात्तु न क्वचित् ।[K 424abcd]

629 दिव्यं तु वर्जयेन्नित्यमार्तानां तु गदेर्नृणां । [K ?]

630 तण्डुले न नियुंजीत व्रतिनं मुखरोगिणं ॥ [K 424ef]

[1]व्रतिनं तण्डुलाभक्षणव्रतवन्तं ।

[2]विष्णुः -

631-633 न कुष्ठ्यसमर्थलोहकराणामग्निर्देयः । शरद्ग्रीष्मयोः । न कुष्ठि-
634.635 पैत्तिकब्राह्मणानां विषं देयं । प्रावृषि च । न श्लेष्मव्याध्य-
636 र्दितानां भीरूणां श्वासकासिनामम्बुजीविनामुदकं । हेमन्तशिशि-
637.638 रयोश्च । न नास्तिकेभ्यः कोशो न देशे व्याधिमरकोपसृष्टे
च ॥ [Vi 9.25-32]

[1]पितामहः -

639 मद्यपस्त्रीव्यसनिनां कितवानां तथैव च ।
कोशः प्राज्ञैर्न दातव्यो ये च नास्तिकवृत्तयः ॥[Pi 43]

[1]कात्यायनः -

640 देशकालाविरोधे तु यथायुक्तं प्रकल्पयेत् ।
अन्येन हारयेद्दिव्यं विधिरेष विपर्यये ॥ [K 436]

[1]अन्येन प्रतिनिधिना । [2]हारयेत् कारयेत्। [3]विपर्यये अभियुक्तस्यासामर्थ्ये ।

---

627 विषेण वि° : LCM2 विषेणैव । 628 °योग° : LCM2 वेद । 628 दद्यात्तु न क्वचित् : B2 दद्यान्न कुत्रचित् । 639 दातव्यो : B2 दातव्यः। 640[3] अभि° : B2 भि ।

[4]नारदः -

641 सव्रतानां कृशार्तानां व्याधितानां तपस्विनां ।
स्त्रीणां च न भवेद्दिव्यं यदि धर्मस्त्ववेक्ष्यते ॥ [N 1.256]

[1]कात्यायनः -

642 मातापितृद्विजगुरुबालस्त्रीराजघातिनां ।
महापातकयुक्तानां नास्तिकानां विशेषतः ॥ [K 427]

643 लिङ्गिनां प्रमदानां च मन्त्रयोगक्रियाविदां ।
वर्णसंकरजातानां पापाभ्यासप्रवर्तिनां ॥ [K 428]

644 एतेष्वेवाभियोगेषु निन्द्येष्वेव प्रयत्नतः ।
दिव्यं प्रकल्पयेन्नैव राजा धर्मपरायणः ॥ [K 429]

645 एतैरेवाभियुक्तानां साधूनां दिव्यमर्हति ।
नेच्छन्ति साधवो यत्र तत्र साध्यं स्वकैर्नरैः ॥ [K 430]

646 महापातकयुक्तेषु नास्तिकेषु विशेषतः ।
न देयं तेषु दिव्यं तु पापाभ्यासरते भृगुः ॥ [K 431]

647 येषु पापेषु दिव्यानि प्रतिषिद्धानि यत्नतः ।
भावयेत् सज्जनैस्तानि नाभिशस्तं त्यजेन्नृपः ॥ [K 432]

[1]अवष्टम्भे विशेषमाह पितामहः -

648 अवष्टम्भाभियुक्तानां घटादीनि तु दापयेत् ।
तण्डुलाश्चैव कोशश्च शङ्कास्वेतौ नियोजयेत् ॥ [Pi 36]

[1]अवष्टम्भोऽत्र निश्चयः ।

[2]तथा -

649 चौर्यशङ्काभियुक्तानां तप्तमाषो विधीयते ॥ [Pi 169cd]

[1]कात्यायनः -

650 शङ्काविश्वाससंधाने विवादे ऋक्थिनां सदा ।
क्रियासमूहकर्तृत्वे कोशमेव प्रदापयेत् ॥ [K 415]

[1]क्रियासमूहकर्तृत्वे सम्भूयैकक्रियाकरणे ।

---

641 ॰वेक्ष्यते : LCM2 पेक्षते । 643 प्रमदानां : LCM2 प्रमत्तानां ।643 ॰क्रियाविदां : B2 विदां तथा । 644 निन्द्येष्वेव : B1 नित्यमेव ।646 ॰युक्तेषु : B2 योगेषु LCM2 युक्तानां । 646 तु : B2 च । 649[1] कात्यायनः : B1B2 om ।

[1]पितामहः -

651 विश्रम्भे सर्वशङ्कासु संधिकार्ये तथैव च ।
एष कोशः प्रदातव्यो नित्यं चित्तविशुद्धये ॥ [Pi 37]

[1]अत्र द्रव्यसंख्यातो दिव्यविशेषः ।

[2]तत्र विष्णुः -

652-654 अथ समयक्रिया । राजद्रोहसाहसेषु यथाकामं । निक्षेपर्णस्तेयेष्वर्थप्रमाणात् ॥ [Vi 9.1-3]

[1]समयो दिव्यं । [2]राजद्रोहादिषु यथाकामं राजेच्छानुसारेण दिव्यमित्यर्थः ।

[3]दैवी क्रियेत्यनुवृत्तौ बृहस्पतिः -

655 ऋणादिषु च कार्येषु विसंवादे परस्परं ।
द्रव्यसंख्यान्विता देया पुरुषापेक्षया तथा ॥ [B 8.7]

[1]कात्यायनः -

656 दत्तस्यापह्नवो यत्र प्रमाणं तत्र कल्पयेत् ।
स्तेयसाहसयोर्दिव्यं स्वल्पे ऽप्यर्थे प्रदापयेत् ॥ [K 416]

[1]कल्पयेत् अपह्नुतद्रव्यसंख्यां जानीयात् । [2] स्वल्पे ऽपीति - यादृशि स्वल्पे ऋणादौ दिव्याभावः स्तेयसाहसयोस्तादृश्यपि घने दिव्यमित्यर्थः ।

[3]बृहस्पतिः -

657 संख्या रश्मिरजोमूला मनुना समुदाहृता ।
कार्षापणान्ता सा दिव्ये नियोज्या विनये तथा ॥ [B 8.28]

658 विषं सहस्रे ऽपहृते पादोने च हुताशनः ।
त्रिभागोने च सलिलमर्धे देयो घटः सदा ॥ [B 8.29]

659 चतुःशताभियोगे तु दातव्यस्तप्तमाषकः ।
त्रिशते तण्डुला देयाः कोशश्चैव तदर्धके । [B 8.30]

660 शते हृते ऽपह्नुते च दातव्यं धर्मशोधनं ।

---

651 विश्रम्भे : CM2 विस्रम्भे । 654[2] ०सारेण दिव्यमित्यर्थः : LCM2 सारेणेत्यर्थः । 656[1] कल्पयेत् : B2 कल्पयेद् ।

गोचोरस्य प्रदातव्यं सम्यैः फालावलेहनं ॥ [B 8.31]

661 एषा संख्या निकृष्टानां मध्यानां द्विगुणा स्मृता ।
चतुर्गुणोत्तमानां च कल्पनीया परीक्षकैः ॥ [B 8.48]

[1] रश्मिरजोमूला -

662 जालान्तरगते भानौ यत् सूक्ष्मं दृश्यते रजः ।
प्रथमं तत्प्रमाणानां त्रसरेणुं प्रचक्षते [M 8.132]

[1] इत्यादिका ।[2] अग्रिमसंख्याप्येतदनुसारेण। [3] विनये दण्डे । [4] निकृष्टानां जातिगुणकर्मभिः । [5] एवं मध्यमानामुत्तमानां च ।

[6] याज्ञवल्क्यः -

663 ना सहस्रात् हरेत् फालं न विषं न तुलां तथा ।
नृपार्थेष्वभिशापे च वहेयुः शुचयः सदा ॥ [Y 2.99]

[1] ना सहस्रात् पणसहस्रादर्वागित्यर्थः । [2] नृपार्थेषु नृपद्रोहेषु नृपद्रव्येषु वा । [3] अभिशापे पातकाभियोगे । [4] सदा पूर्वोक्तसंख्यां विनापीत्यर्थः । [5] शुचयः स्नानादिना ।

[6] एतानि तु सहस्रादिवचनानि स्तेयसाहसविषयाणीत्याहुः ।

[7] विष्णुः -

664.665 सर्वेष्वेवार्थजातेषु मूल्यं कनकं प्रकल्पयेत् । तत्र कृष्णलोने शूद्रं दूर्वा-
666.667 करं शापयेत् । द्विकृष्णलोने तिलकरं । त्रिकृष्णलोने रजतकरं ।
668-670 चतुःकृष्णलोने कनककरं । पंचकृष्णलोने सीतोद्धृतमहीकरं । सुव-
671 र्णार्धे कोशः देयः शूद्रस्य । ततः परं यथार्हं घटाग्न्युदकविषा-
672.673 णामन्यतमं । द्विगुणार्थे यथाविहिता समयक्रिया वैश्यस्य । त्रि-
674.675 गुणार्थे राजन्यस्य । चतुर्गुणार्थे ब्राह्मणस्य । न ब्राह्मणस्य
676.677 कोशं दद्यात् । अन्यत्रागामिकालसमयनिबन्धनक्रियातः । कोशस्थाने
678 च ब्राह्मणं सीतोद्धृतमहीकरमेव शापयेत् । प्राग्दृष्टदोषं स्वल्पे
679 ऽप्यर्थे दिव्यानामन्यतममेव कारयेत् । सत्सु विदितं तच्चरित्रं न

---

663 वहेयुः : B1B2 हरेयुः । 663[1] पण° : LCM2 om । 663[1] °दर्वाग् : B2M1 दर्वाक् । 663[6] तु : LCM2 च ।670 सुवर्णा° : B1 स्वर्णा । 672 द्विगुणार्थे :B1 द्विगुणार्थेषु । 673 त्रिगुणार्थे : B1LCM2 त्रिगुणेऽर्थे । 674 चतुर्गुणार्थे : B1LCM2 चतुर्गुणेऽर्थे । 677 च : LCM2 om । 679 तच्चरित्रं : B2 सच्चरित्रं ।

महत्यर्थे ॥ [Vi 9.4-19]

[1] अत्र कनकपदं परिमाणरूपसुवर्णपरं । [2] तत्र सुवर्णे । [3] दूर्वादि यथाक्रमं करे निधाय शपथाः शूद्रेण कर्तव्याः । [4] सुवर्णार्धो ऽर्धः कनक इत्यर्थः । [5]अर्धसुवर्णमूल्यके धने शूद्रेण कोशपानं कर्तव्यं । [6]एतद्द्विगुणे वैश्येन । [7] एतत्त्रिगुणे क्षत्रियेण । [8]एतच्चतुर्गुणे ब्राह्मणेन त एव शपथाः कार्याः । [9]शूद्रकोशार्हधनाद् द्विगुणत्रिगुणयोर्वैश्यक्षत्रियाभ्यां कोश एव कार्यो ब्राह्मणस्य तु कोशो न देयः । [10] अन्यत्रागामीति अस्माभिर्मिलित्वा एवं कर्तव्यमिति यत्र समयः कृतः तस्मादन्यत्र । [11] तत्र तु ब्राह्मणस्यापि कोशो देयः । [12] सीता हलपद्धतिः । [13] यथार्हमिति स्तेयसाहसयोः स्वल्पे ऽप्यर्थे ऋणादौ तु शतसुवर्णाधिभियोगे ।

[14] <u>कात्यायनः</u> -

680 सर्वद्रव्यप्रमाणं तु ज्ञात्वा हेम प्रकल्पयेत् ।
हेमप्रमाणयुक्तं तु तदा दिव्यं प्रयोजयेत् ॥ [K 417]

681 शते विषं तु पादोने हुतभुक् तत्र दृश्यते ।
आपस्त्रिभागहीने तु शतार्धे तु तुला स्मृता ॥ [K App 42]

682 कोशपानं तदर्धे वा दशपंचकसप्तसु । [K ?]

683 तदर्धे तण्डुला देयास्तदर्धे तप्तमाषकः ॥ [K App 42°]

[1] शते सुवर्णस्येत्यर्थः । [2]पादोने पंचसप्ततिसुवर्णमिते धने । [3] त्रिभागहीने तृतीयभागहीने सुवर्णशते । [4] तदर्धे शतार्धार्धे । [5]दशपंचकसप्तस्विति - शतस्य दशमांशे पंचमांशे सप्तमांशे वा कोशपानं प्रदातव्यमित्यर्थः । [6] अत्र चाल्पपरिमाणमपकृष्टविषयं ।

[7]<u>वृद्धमनुः</u> -

684 ज्ञात्वा संख्यां सुवर्णस्य शतनाशे विषं स्मृतं ।
अशीतेस्तु विनाशे तु दद्याच्चैव हुताशनं ॥ [K 418]

685 षष्ट्या नाशे जलं ज्ञेयं स्याच्चत्वारिंशतो घटः ।
त्रिंशद्दशविनाशे वा कोशपानं बृहस्पतिः ॥ [K 419]

686 पंचाधिकस्य नाशे वा तदर्धस्य च तण्डुलाः ॥ [K 420ab]

679[1] °रूप° : B1 om । 679[9] कार्यो : LCM2 कार्यः । 679[11] तु : LCM2 om । 683 देयास् : LCM2 देयाः । 685 ज्ञेयं : LCM2 देयं । 686 पंचाधिकस्य : B2 पंचार्धकस्य ।

[1]त्रिंशद्दशविनाशे वेति - त्रिंशद्विनाशे दशविनाशे वेत्यर्थः । [2]पंचार्धकस्य वेति - पंचार्धस्य वा तदर्धस्य वा नाशे कोशपानमित्यर्थः ।

[3]इमानि तु वचनानि ऋणादिविषयाण्युत्कृष्टविषयाणि चेत्यतो न याज्ञवल्क्यादिविरोध इति ।

[4]दिव्यविषयस्तु ग्रन्थगौरवभयान्नेह तन्यन्ते ।

686[1] वेति : LCM2 वा इति । 686[1] वेत्यर्थः : B2 वा इत्यर्थः । 686[2] पंचार्धकस्य : B2 पंचार्धैकस्य। 686[2] पंचार्धस्य : B2 पंचार्धस्य एकस्य वा LCM2 पंचार्धकस्य । 686[3] ०विषयाण्युत्कृष्ट० : B2 विषयाणि उत्कृष्ट ।

(686) [5]अथ शपथाः ।

[6]तत्र मनुः -

687 सत्येन शापयेद्विप्रं क्षत्रियं वाहनायुधैः ।
गोबीजकांचनैर्वैश्यं शूद्रं सर्वैस्तु पातकैः ॥ [M 8.113]

688 पुत्रदारस्य चाप्येनं शिरांसि स्पर्शयेत् पृथक् ॥ [M 8.114cd]

[1]सत्येन शापयेत् यदि एतन्मया कृतं तदा सत्यातिक्रमजन्यपापभागहं स्यामिति वादयेत् । [2]वाहनायुधैरित्यत्रापि यद्येतन्मया कृतं तदैतानि वाहनान्यायुधानि वा मम निष्फलानि भवन्त्विति वादयेदित्यर्थः । [3]एवमन्यत्रापि । [4]हलायुधस्तु - [5]ब्राह्मणेन तु सत्यमिति वक्तव्यं क्षत्रियेण तु वाहनमायुधं वा स्प्रष्टव्यं वैश्येन तु गोबीजकांचनानामन्यतमं स्प्रष्टव्यं शूद्रेण तु सर्वमेतत् कर्तव्यं । [6]पातकशब्दश्चात्र पूर्वोक्तशपथानामेव विशेषणं ,[7] तेषां वृथा कृतानां पातकहेतुत्वादिति व्याख्यातवान् ।

[8]बृहस्पतिः -

689 सत्यं वाहनमस्त्रं च गोबीजकांचनानि च ।
देवब्राह्मणपादाश्च पुत्रदारशिरांसि च ॥ [B 8.33]

690 एते च शपथाः प्रोक्ता मनुना स्वल्पकारणे ।
साहसे ऽप्यभिशापे च दिव्यानि तु विशोधनं ॥[B 8.34]

[1]अत्र शपथानां दिव्यभिन्नतयोपन्यासाद्घटादिषु चापरिगणनान्न दिव्यत्वमतो न दिव्यधर्माणामुपवासार्द्रवासस्त्वादीनामन्वयः किंतु शौचार्थं स्नानाचमनादिमात्रस्येति द्रष्टव्यं ।

[2]शङ्खः -

691 इष्टापूर्तप्रदानमन्यांश्च शपथान् कारयेत् ॥ [SL 265]

[1]मनुः -

692 न वृथा शपथं कुर्यात् स्वल्पे ऽप्यर्थे नरो बुधः ।

686[6] तत्र मनुः : B1 om । 688[1] शापयेत् : B2 शापयेदिति । 688[2] तदैतानि : B2 तदा एतानि। 688[2] वा : B2LCM2 om । 688[2] वादयेदित्यर्थः : B2 वादयेत् । 690 च : M1 तु । 690 तु विशोधनं : B1 परिशोधनं ।

वृथा हि शपथान् कुर्वन् प्रेत्य चेह च नश्यति ॥[M 8.111]

693 कामिनीषु विवाहेषु गवां भुक्ते तथेन्धने ।
ब्राह्मणाभ्युपपत्तौ च शपथेनास्ति पातकं ॥ [M 8.112]

[1]कामिनीष्विति - रहसि कामिनीसंतोषार्थं वृथाशपथैरेवं विवाहसिद्ध्यर्थं वृथाशपथैरेवं गोघासार्थं वृथाशपथैरेवमावश्यकाहुतिहेत्विन्धनार्थं वृथाशपथैरेवं ब्राह्मणादिरक्षार्थं वृथाशपथैर्नदोष इत्यर्थः ।

[2]यमः -

694 मृषा कृत्वा तु शपथं कीटस्य वधसंयुतं ।
अनृतेन च युज्यते वधेन च तथा नरः ।[Ya ?]

695 तस्मान्न मिथ्या शपथं नरः कुर्याद्यथेप्सितं ॥ [Ya ?]

[1]कीटपदं प्राणिमात्रोपलक्षणं । [2] तेन यद्येतन्मया कृतं तदा मम ब्राह्मणवध इत्यादौ शपथे मृषा कृते कर्तुर्ब्रह्मवधभागिता भवतीत्यर्थः ।

[3] इति महाराजाधिराजश्रीदर्पनारायणात्मज-
महाराजाधिराजश्रीहृदयनारायणानुज-
महाराजाधिराजश्रीहरिनारायण-
विरचिते व्यवहारचिन्तामणौ
क्रियापादः ।

- - - - - - - - - -

692 शपथान् : B1 शपथं । 693[1] °रक्षार्थं : M1 रक्षणार्थं । 695[1] °लक्षणं : B2LCM2 लक्षणपरं । 695[3] इति महाराजा° ... °महाराजाधिराजश्रीहरिनारायण° : B2 इति श्रीहरिनारायण । 695[3] °विरचिते : M1 विरचित ।

(695) [4]अथ निर्णयः ।

[5]तत्र व्यासः -

696 प्रमाणैर्हेतुचरितैः शपथेन नृपाज्ञया ।
वादिसम्प्रतिपत्त्या वा निर्णयोऽष्टविधः स्मृतः ॥ [Vy 1.1]

697 लिखितं साक्षिणो भुक्तिः प्रमाणं त्रिविधं स्मृतं ।
अनुमानं विदुर्हेतुं तर्कश्चेति मनीषिणः ॥ [Vy 1.2]

698 देशस्थितिः पूर्वकृता चरितं समुदाहृतं ।
अर्थानुरूपाः शपथाः स्मृताः सत्यघटादयः ।
तेषामभावे राजाज्ञानिर्णयं तु विदुर्बुधाः ॥ [Vy 1.3]

[1]प्रमाणैरित्यनेन लिखितसाक्षिभुक्तीनां प्रत्येकं विवक्षा । [2]तर्कानुमाने हेतुरित्येकैव विधा । [3]सत्यघटादय इति दैवक्रियामात्रोपलक्षणमतोऽष्टविधत्वं इदं । [4]शपथपदं गौणं प्राचीनविभागानुरोधादित्यवधेयं ।

[5]अत्र शपथेषु कोशे च निर्णयक्रमः ।

[6]तत्र कात्यायनः -

699 आ चतुर्दशकादह्नो यस्य नो राजदैवकं ।
व्यसनं जायते घोरं स ज्ञेयः शपथे शुचिः ॥ [K 463]

[1]व्यसनमापत् । [2]घोरं अतिपीडाकरं ।

[3]कोशाधिकारे विष्णुः -

700 यस्य पश्येद् द्विसप्ताहात् त्रिसप्ताहादथापि वा ।
रोगोऽग्निर्ज्ञातिमरणं राजातङ्कमथापि वा ॥ [Vi 14.4]

701 तमशुद्धं विजानीयात् तथा शुद्धं विपर्यये ॥ [Vi 14.5ab]

[1]पितामहः -

702 त्रिरात्रात् सप्तरात्राद्वा द्विसप्ताहादथापि वा ।
वैकृतं यस्य दृश्येत पापकृत्स तु मानवः ॥ [Pi 161]

703 तस्यैकस्य न सर्वस्य जनस्य यदि तद् भवेत् ।

---

696 वा : B2 च । 698[1] °त्यनेन : B1 त्यत्र । 698[2] °त्येकैव : B2M1 त्येक । 698[5] अत्र : B1B2 अथ ।

रोगोऽग्निर्ज्ञातिमरणं सैव तस्य विभावना ॥[Pi 162]

[1] कात्यायनः -

704 अथ दैवविसंवादस्त्रिसप्ताहात्तु दापयेत् ।
अभियुक्तं प्रयत्नेन तदर्थं दण्डमेव च ॥[K 456]

705 तस्यैकस्य न सर्वस्य जनस्य यदि तद् भवेत् ।
रोगोऽग्निर्ज्ञातिमरणमृणं दद्याद्दमं च सः ॥[K 457]

706 ज्वरातीसारविस्फोटगूढास्थिपरिपीडनं ।
नेत्ररुग्गलरोगश्च तथोन्मादः प्रजायते ।
शिरोरुग्भुजभङ्गश्च दैविका व्याधयो नृणां ॥[K 458]

[1] दैवविसंवादो रोगज्ञातिमरणादि । [2] तस्यैकस्येति - न तु देशव्यापको मरकादिः किंतु शपथानन्तरजन्मा अभियुक्तस्यासाधारणो रोगादिर्भङ्गलिङ्गमित्यर्थः ।

[3] शपथाधिकारे नारदः -

707 ऊर्ध्वं यस्य द्विसप्ताहात् वैकृतं सुमहद् भवेत् ।
नाभियोज्यः स विदुषा कृतकालव्यतिक्रमात् ॥[N 1.331]

[1] अत्र त्रिरात्रादिव्यवस्था यथाक्रमं ब्राह्मणादिपरेति हलायुधः । [2] यस्य देवस्य स्नपनोदकं पीतं तत्प्रचण्डतातारतम्येन त्रिरात्रादिव्यवस्थेति पारिजातः । [3] देशकालप्राशस्त्योत्कर्षे विषयोद्भटत्वे च त्रिरात्रं । [4] यथा यथा तदपकर्षस्तथा तथा सप्तरात्रादिकल्प इति प्रदीपः ।

[5] सर्वमिदं सप्तत्रिरात्रादिवर्जं शपथसाधारणमाकाङ्क्षातौल्यात् ।

[6] अभियुक्तस्य तु जयेऽभियोक्तुरेव दण्ड इत्याह कात्यायनः -

708 अवष्टम्भाभियुक्तस्य विशुद्धस्य तु कोशतः ।
सदण्डमभियोगं तु दापयेदभियोजकं ।
दिव्येन शुद्धं पुरुषं सत्कुर्याद्धार्मिको नृपः ॥ [K 454]

---

705 दद्याद् : B2 दाप्यो । 706 ज्वरातीसार° : B2M1 ज्वरातिसार। 706[2] °व्यापको : M1 व्यापक । 706[2] मरकादिः : LCM2 मरणादिः । 707 °प्ताहात् : B1B2 °प्ताहाद् । 707[2] °व्यवस्थेति : LCM2 व्यवस्था इति । 707[3] °द्भटत्वे : B1 त्कटत्वे । 707[4] °पकर्षस् : B1 पकर्षः । 707[5] सप्तत्रि° : M1 त्रिसप्त ।

[1]अत्र कोशपदं दिव्यपदं चोपलक्षणं - [2]उत्तीर्णतामात्रे तात्पर्यं [3]न्याय-तौल्यादिति ।

[4]जयिभङ्गिनोर्दण्डमाह कात्यायनः -

709 शतार्धं दापयेच्छुद्धमशुद्धो दण्डभाग्भवेत् ॥ [K 459]

[1] शतार्धं पणानां ।

[2] भङ्गिदण्डं विवेचयति स एव -

710 विषे तोये हुताशे च तुलाकोशे च तण्डुले ।
तप्तमाषकदिव्ये च क्रमाद्दण्डं प्रकल्पयेत् ॥ [K 460]

711 सहस्रं षट्शतं चैव तथा पंचशतानि च ।
चतुस्त्रिद्व्येकमेवं च हीनं हीने च कल्पयेत् ॥ [K 461]

[1] हीने भङ्गिनि । [2] सहस्रादिकं पणानां ।

[3] अथ निर्णयबलाबलं ।

[4] तत्र नारदः -

712 धर्मश्च व्यवहारश्च चरित्रं राजशासनं ।
चतुष्पाद् व्यवहारोऽयमुत्तरः पूर्वबाधकः ॥ [NMā 1.10]

[1] उत्तरः पूर्वबाधक इति - धर्मव्यवहारचरित्रराजशासनेषु उत्तर उत्तरः पूर्वस्य पूर्वस्य बाधक इत्यर्थः ।

[2] बृहस्पतिः -

713 सम्यग्विचार्य कार्यं च युक्त्या सम्परिकल्पितं ।
परीक्षितं च शपथैः ज्ञेयो धर्मविनिर्णयः ॥ [B 9.3]

714 प्रतिवादी प्रपद्येत यत्र धर्मः स निर्णयः ।
दिव्यैर्वा शोधितः सम्यक् द्वितीयः स उदाहृतः ॥ [B 9.4abc5d]

[1] अयं द्विविधो धर्माख्यो निर्णयः ।

[2] तथा -

---

710 हुताशे च : B2 हुताशे तु । 712 चरित्रं : B2 चरितं । 712[1] °चरित्र° : B2 चरित । 713 शपथैः : B2 शपथैर् । 714 सम्यक् : B1B2 सम्यग् । 714[2] तथा : B1B2 om ।

715 शास्त्रं केवलमाश्रित्य क्रियते यत्र निर्णयः ।
व्यवहारः स विज्ञेयो धर्मस्तेनावहीयते ॥ [B 1.19]

[1]धर्मो धर्माख्यो निर्णयः तेन व्यवहाराख्येन निर्णयेनावहीयते बाध्यत इत्यर्थः ।

[2]बाधविषयमाह कात्यायनः -

716 युक्तियुक्तं तु कार्यस्य दिव्यं यत्र तु वर्जितं ।
धर्मस्तु व्यवहारेण बाध्यते तत्र नान्यथा ॥ [K 39]

[1]अयोग्यदिव्याधीनो निर्णयो व्यवहारेण बाध्यत इत्यर्थः ।

[2]बृहस्पतिः -

717 देशस्थित्यनुमानेन नैगमानुमतेन च ।
क्रियते निर्णयस्तत्र व्यवहारस्तु बाध्यते ॥ [B 1.20]

[1]नैगमाः पौरवणिजः । [2] नैगमानुमतेनानुमानेनेति सम्बन्धः । [3] अनेन चरित्राख्येन निर्णयेन सामान्यमुखशास्त्रानुसारी व्यवहाराख्यो निर्णयो बाध्यत इत्यर्थः ।

[4]कात्यायनः -

718 विरुद्धं न्यायतो यस्तु चरित्रं कल्प्यते नृपैः ।
एवं तत्र निरस्येत चरित्रं तु नृपाज्ञया ॥ [K 42]

719 अनेन विधिना प्रोक्तं बाधकं च यदुत्तरं ।
अन्यथाबाधनं यत्र तत्र धर्मो विहन्यते ॥ [K 43]

[1] विरुद्धं न्यायत इति - न्यायतो विरुद्धं यच्चरित्रं तद्राजाज्ञया निरस्यमित्यर्थः । [2] यद्वा न्यायत इति सार्वविभक्तिकस्तसिः । [3] न्याययोः शास्त्रयोर्वा यत्र विरोधस्तत्रापि राजाज्ञया व्यवहार इत्यर्थः ।

[4] अथ निर्णीतिकृत्यं ।

[5] तत्र नारदः -

720 स्वयमभ्युपपन्नोऽपि स्वचर्यावसितोऽपि सन् ।

715[1] निर्णयः : B2 निर्णयम् । 717[3] चरित्रा° : B2 चरिता । 718 चरित्रं : B1 चरितं । 718 चरित्रं : B1 चरितं । 719[1] तद्राजाज्ञया : B1 नृपाज्ञया ।

क्रियावसन्नो ऽप्यर्हेत परं सभ्यावधारणं ॥[NMā 2.41]

721 स तैरवधृत: पश्चाद्राज्ञा शास्य: स शास्त्रत: ॥ [NMā 2.43ab]

[1] स्वयमभ्युपपन्न: आत्मनैवाङ्गीकृतस्वपराजय: । [2] स्वचर्यावसित: कम्पस्वेदवैवर्ण्यादिना भङ्गितयावधारित: । [3] क्रियावसन्न: दिव्यादिना क्रियया प्राप्तावसाद: प्राप्तपराजय इति यावत् [4] परमनन्तरं सभ्यावधारणमर्हेत सभ्यानां मिलित्वा पराजितो ऽयमिति कीर्तितमर्हेदित्यर्थ: ।

[5] याज्ञवल्क्य: -

722 निह्नवे भावितो दद्यात् धनं राज्ञे च तत्समं ।
मिथ्याभियोगी द्विगुणमभियोगाद्धनं हरेत् ॥ [Y 2.11]

[1] निह्नवे ऽपलापे । [2] भावित: साक्ष्यादिभिरङ्गीकारित: ।

[3] मनु: -

723 अर्थे ऽपव्ययमानं तु कारणेन विभावितं ।
दापयेद्धनिकस्यार्थं दण्डलेशं च शक्तित: ॥ [M 8.51]

724 यो यावन्निह्नवीतार्थं मिथ्या यावति वा वदेत् ।
तौ नृपेणाप्यधर्मज्ञौ दण्ड्यौ तद्द्विगुणं दमं ॥[M 8.59]

[1]अपव्ययमानमपलपन्तं । [2] कारणेन साक्ष्यादिप्रमापणेन ।
[3]यावदिति - अधमर्णो यावन्तमर्थमपजानीते यावति धने मिथ्योत्तमर्णो ऽभियुंजीत तावुभावाशयदोषेण विवादप्रवृत्तौ विवादविषयधनद्विगुणं दण्डं दाप्यावित्यर्थ: । [4] आशयदोषव्यतिरेकेण विस्मरणादिनापह्नवे दण्डलेशं च शक्तित इत्यवगन्तव्यं ।

[5] अत्र च समद्विगुणदण्डलेशानामपह्नोतुर्जातिवयोवित्तसमाचारादिना व्यवस्था कार्या । [6] आशयदोषबलवदाशयदोषानादाय व्यवस्थेति केचित् ।
[7] तदाह याज्ञवल्क्य: -

725 ज्ञात्वापराधं देशं च कालं बलमथापि वा ।
वय: कर्म च वित्तं च दण्डं दण्ड्येषु दापयेत् ॥ [Y 1.368]

---

721 स तैरव° : M1 सभ्यैरव । 721 स शास्त्रत: : CM2 स्वशास्त्रत: ।722 दद्यात् : M1 दद्याद् । 722[1] ऽपलापे : B1 अपलापे B2 पह्नवे । 723 च : B2 तु । 724[3] °प्रवृत्तौ : B1 वृत्तौ । 725 वय: ... वित्तं च : B1 वयश्च ... वित्तं ।

[1] बृहस्पतिरपि -

726 अपराधानुरूपश्च दण्डोऽत्र परिकल्पित इति ॥[B 9.2cd]

[1] सम्प्रतिपत्त्युत्तरदातुस्तदतिरिक्तापह्नोतृविषयदण्डार्धदण्ड इत्याह व्यासः -

727 निह्नुते तु यदा वादी स्वयं तत्प्रतिपद्यते ।
ज्ञेया सा प्रतिपत्तिस्तु तस्यार्धं विनयः स्मृतः ॥[Vy 1.115]

[1] द्विजातिषु मिथ्याभियोजकशूद्रदण्डमाह नारदः -

728 मिथ्याभियोगिनो ये स्युर्द्विजानां शूद्रयोनयः ।
तेषां जिह्वां समुत्कृत्य राजा शूले निवेशयेत् ॥ [NMā 2.37]

729 निह्नुते लिखितानेकमेकदेशविभावितः ।
दाप्यः सर्वान्नृपेणार्थान्न ग्राह्यस्त्वनिवेदितः ॥[Y 2.20]

[1]यदानेकं सुवर्णरजतताम्रादिकमुत्तमणो लेखयेत् एतानि मे धारयसीत्युक्त्वाभियुक्तः सर्वं निह्नुते तदेकदेशेऽपि सुवर्णे रजते वा साक्ष्यादिना विभाविते सर्वमभियोगविषयमर्थमभियोक्त्रेऽभियोज्यो दाप्यः । [2] एकदेशविभावनानन्तरं त्वादिप्तोऽपि भाषाकालेऽनुपन्यस्तोऽर्थो नाभियुक्तपार्श्वे दाप्य इत्यस्यार्थ इति हलायुधः ।

[3] नारदः -

730 अनेकार्थाभियोगे तु सर्वार्थव्यपलापिना ।
विभावितैकदेशेन देयं तदपि युज्यते ॥ [N ?]

[1]इदं चोभयमपि येषामर्थानां मिथोऽविनाभावस्तत्परं, [2] न्यायमूलकत्वात् । [3]यद्वा एकदेशप्रमापिते सर्वमेव दास्यामीति सपणविवादविषयमिदं । [4]तदाह याज्ञवल्क्यः -

---

726 °रूपश्च : B1 रोघश्च B2 रूपेण । 726[1] °ह्नोतृ : B1 ह्नोतुः (m sh)। 726[1] °दण्डार्ध° :LCM2 दण्डार्द्धं । 727 तत् : LCM2 तु । 729 लिखिता° : B1LCM2 लिखितो । 729 ग्राह्यस्त्व° : B1 ग्राह्यो त्व । 729[1] °भियुक्तः :B1LCM2 भियुक्तः सन् । 729[1] °विषयमर्थ° : B2 विषयार्थ । 729[1] ऽभियोज्यो : B1 अभियोज्यो । 729[3] °नन्तरं त्वादिप्तो : B2 नन्तरं वादिप्तो : LCM2 नन्तरमादिप्तो ।

731 सपणश्चेद्विवादः स्यात्तत्र हीनं प्रदापयेत् ।
दण्डं च स्वपणं चैव धनिने धनमेव च ।। [Y 2.18]

[1] स्वपणं स्वयंकृतपणमित्यर्थः ।

[2] अथ जयिप्रतिपत्तिः ।

[3] तत्र बृहस्पतिः -

732 प्रतिज्ञाभावनाद्वादी प्राड्विवाकादिपूजनात् ।
जयपत्त्रस्य चादानाज्जयी लोके निगद्यते ।। [B 9.21]

[1] कात्यायनः -

733 सिद्धेनार्थेन संयोज्यो वादी सत्कारपूर्वकं ।
लेख्यं तदर्थसंयुक्तं तस्मै दद्याच्च पार्थिवः ।। [K 262]

[1] तथा -

734 निरस्तं लिखितं यत्तु तच्च सभ्यो विनाशयेत् ।
पश्चात्कारक्रिया वापि निरस्येत न संशयः ।। [K ?]

735 निरस्ता तु क्रिया यत्र प्रमाणनैव वादिना ।
पश्चात्कारो भवेत्तत्र न सर्वासु विधीयते ।। [K 264cdef]

736 दासस्त्रीभूगृहारामलेखकानां पराजये ।
एतेष्वेव सदा देयः पश्चात्कारस्तु पार्थिवैः ।। [K ?]

[1] पश्चात्कारो निर्णयानन्तरक्रिया जयपत्त्रादिका । [2] प्रमाणं साक्ष्यादि । [3] एतेष्वेवेत्युपलक्षणं, [4] अन्यत्रापि शिष्टैस्तद्दानात् ।

[5] अथ पुनर्न्यायः ।

[6] मनुः -

737 तीरितं चानुशिष्टं च यत्र क्वचन यद् भवेत् ।
कृतं तद्धर्मतो विद्यात् न तद् भूयो निवर्तयेत् ।। [M 9.233]

[1] तीरितमिति - तीर पार कर्मसमाप्तावित्यस्य चुरादिकस्य निष्ठायां रूपं । [2] तेन निर्णीय समापितमित्यर्थः । [3] अनुशिष्टं साद्यादिभिरुक्तं ।

731[3] तत्र : B2 om । 736[4] तद्दानात् : LCM2 तद्दानादिति संक्षेपः । 737 विद्यात् : B1B2 विद्यान् । 737 निवर्तयेत् : B1 निवर्तते । 737[1] चुरादि° : B1B2M1 चौरादि ।

[4] यत्र क्वचन ग्रामादिसमायां । [5] अयं तु लक्ष्मीधरादिस्वरसः ।
[6] ग्रन्थान्तरे तु - साक्ष्यादीनां दुष्टत्वे परं विचारितस्य तीरितत्वानुशिष्टत्वे न त्वन्यथेति । [7] तदाह कात्यायनः -

738 असत्सदिति यः पक्षः सभ्यैरेवावधार्यते ।
तीरितः सोऽनुशिष्टस्तु साक्षिदौष्ट्यात् प्रकीर्तितः ॥ [K 495]

[1] यत्र तु तीरितानुशिष्टयोरप्यधर्मकृतत्वं मत्वा पराजयी पुनः प्रत्यवतिष्ठते तत्र तस्य स्वीकारितविवादविषयद्विगुणदण्डस्य भूयोऽपि न्यायदर्शनं कार्यमेवेत्याह नारदः -

739 तीरितं चानुशिष्टं च यो मन्येत विधर्मतः ।
द्विगुणं दण्डमास्थाय तत्कार्यं पुनरुद्धरेत् ॥ [NMā 1.65]

[1] विधर्मकृतत्वं प्रकारकं ।

[2] स्वचेष्टावसिते पुनर्न्यायदर्शनाभावं चाह स एव -

740 साक्षिसभ्यावसन्नानां दूषणे दर्शनं पुनः ।[NMā 2.40]
स्वचर्यावसितानां च नास्ति पौनर्भवो विधिः ॥

[1] साक्षिसभ्यावसन्नानां साक्षिनिगदेन सभ्यावधारणेन च प्राप्तावसादानां पुनर्दर्शनं न्यायप्रदर्शनमित्यर्थः । [2] दूषणे साक्षिणां सभ्यानां च दूषणे सतीत्यर्थः ।[3] स्वचर्यावसितानां स्वव्यापारेण परस्परविरुद्धभाषणादिना स्वयमेवाङ्गीकृतपराजयत्वेन प्राप्तावसादानां ।[4] नास्ति पौनर्भवो विधिरिति - न पुनर्व्यवहारप्रवर्तनमित्यर्थः ।

[5] तत्रैव बृहस्पतिः -

741 पलायनानुत्तरत्वादन्यपक्षाश्रयेण च ।
हीनस्य गृह्यते वादो न स्ववाक्यजितस्य तु ॥[B 9.22]

[1] इदमत्राकूतं - [2] अदुष्टसाक्षिसभ्यादिभिः धर्मतो यद्विचारितं तद्वादीच्छामात्रेणान्यथाकृतं तत्र द्विगुणदण्डमास्थापापि न विचार्यं, [3] तीरितं चानुशिष्टं चेति मनुवाक्यविरोधादनवस्थापत्तेः ।
[4] यत्तु लोभप्रमादादिना दुष्टसाक्षिसभ्यैर्निर्णीतं तत्र दूषणे प्रमाणसिद्धे पुनर्विचारणीयमेव । [5] यदाह याज्ञवल्क्यः -

---

737[6] विचारितस्य : B1 विचारस्य । 740 [1] °प्रदर्शन° : B2 प्रवर्तन । 741[2] °मात्रेणान्यथाकृतं तत्र : B1M1 मात्रेण ।

742 दुर्दृष्टांस्तु पुनर्दृष्ट्वा व्यवहारान्नृपेण तु ।
सभ्याः सजयिनो दण्ड्या विवादाद् द्विगुणं दमं ॥[Y 2.305]

[1]नारदोऽपि -

743 असाक्षिकं तु यद्दृष्टं विमार्गेण च तीरितं ।
असम्मतमतैर्दृष्टं पुनर्दर्शनमर्हति ॥[NQ 1.14]

[1]तथा -

744 निश्चित्य बहुभिः सार्धं ब्राह्मणैः शास्त्रपारगैः ।
दण्डयेज्जयिना साकं पूर्वसभ्यांस्तु दोषिणः ॥[B 9.24]

[1]सभ्यानित्यनेन साक्षिणोऽप्युपलक्ष्याः ।

[2]याज्ञवल्क्योऽपि -

745 बलोपधिविनिर्वृत्तान् व्यवहारान्निवर्तयेदिति ॥[Y 2.31ab]

[1]ततश्च यन्निर्णीतमपि साक्षिसभ्यादिदुर्लक्ष्यदूषणमुद्भाव्य पराजितो वादी न स्वीकरोति किंतु पुनर्विचारमर्थयते तत्र द्विगुणदण्डमास्थाय दूषणमेवापाततो विचारणीयं । [2]सिद्धे च दूषणे द्विगुणं दण्डं तिरस्कृत्य पुनस्तत्त्वतो विवादपदविचार एव प्रवर्तनीयः ।

746 दुर्दृष्टांस्तु पुनर्दृष्ट्वा व्यवहारान्नृपेण त्विति [Y 2.305ab]

[1]लिखितयाज्ञवल्क्यस्वरसादेव दूषणासिद्धिपक्षे तु वादिनाङ्गीकृतं द्विगुणं दण्डं सभ्या दाप्याः । [2]अतिप्रसक्तिवारणस्य राज्ञा अवश्यकर्तव्यत्वात् । [3]यदाह नारदः -

747 दुर्दृष्टे व्यवहारे तु सभ्यास्तं दण्डमाप्नुयुः ।
न हि जातु विना दण्डं कश्चिन्मार्गेऽवतिष्ठते । इति ॥[NMā 1.66]

[1]तेन तत्कार्यं पुनरुद्धरेदित्यस्य पराजितसाक्षिसभ्यादिदूषणं तत्त्वतो विचार्य पुनर्व्यवहारं प्रवर्तयेदित्यर्थः । [2]युक्तं चेदं तीरितानुशिष्टयोश्च सभ्यसाक्षिकर्तृकयोर्विधर्मकृतत्वं तयोरेव दूषणपरं नान्यथा । [3]अतस्तत्त्वनिरूपणमेवोचितं ।

[4]याज्ञवल्क्यः -

---

745 °वर्तयेदिति : B1 वर्तयेत् । 745[1] यन्निर्णीत° : M1 निर्णीत । 745[2] द्विगुणं : M1 द्विगुण । 746 त्विति : M1 तु इति । 746[1] द्विगुणं : M1 द्विगुण ।

748 यो मन्येताजितो ऽस्मीति न्यायेनापि पराजितः ।
समायां तु पुनर्जित्वा दापयेद् द्विगुणं दमं ॥ [Y 2.306]

[1] तत्त्वतः पराजितो ऽपि तात्त्विकसाक्ष्यादिदोषमाशङ्क्य विचारस्यासम्यक्त्वं मन्वानस्तद्दोषं निरूप्यासत्त्वेनावधार्य विवादपदाद्धनाद् द्विगुणं दण्डं दाप्य इत्यर्थः ।

[2] अमात्यप्राड्विवाकयोस्तु दुष्टत्वे न द्विगुणो दण्डः । [3] किं तर्हि सहस्रमित्याह मनुः -

749 अमात्याः प्राड्विवाका वा ये कुर्युः कार्यमन्यथा ।
तत्स्वयं नृपतिः कुर्यात् तान् सहस्रं तु दापयेत् ॥ [M 9.234]

[1] सहस्रं पणानां -

750 पणानां द्विशतानीति [Vi 4.14a]

[1] विष्णुवचनात् ।

[2] तदयं संक्षेपः - [3] पूर्वविचारस्यासम्यक्त्वशङ्कायामेव पुनर्विचारः। [4] तत्रापि पराजितस्यादौ द्विगुणदण्डस्वीकारः । [5] ततो विचारप्रवृत्तौ स्वोक्तस्य साक्ष्यादिदूषणस्य तेन पूरणे साक्ष्यादिमात्रदण्डः विवादपदस्य पुनर्विचारणं च । [6] अपूरणे तु पराजितस्यैव दण्डो न तु विचारान्तरमपीति ।

[7] अथ कृतनिवृत्तिः ।

[8] तत्र मनुः -

751 यस्मिन् यस्मिन् विवादे तु कौटसाक्ष्यं कृतं भवेत् ।
तत्तत्कार्यं निवर्तेत कृतमप्यकृतं भवेत् ॥ [M 8.117]

752 योगाधमनविक्रीतं योगदानप्रतिग्रहं ।
यत्र वाप्युपधिं पश्येत् तत्कार्यं विनिवर्तयेत् ॥ [M 8.165]

[1] योगः छद्म । [2] तेन यद् बन्धकार्पणादि कृतं तद्राजा निवर्तयेदित्यर्थः । [3] उपधिं छलं । [4] अत्राधमनादिकमुपलक्षणं । [5] ततो ऽन्यदपि निवर्त्यं ।

---

748 न्यायेनापि : B2 न्यायेन तु । 748 दं : B1 तु । 748[1] °साक्ष्यादि°: M1 साक्षी । 748[2] द्विगुणो : B1B2 द्विगुण । 750[3] °विचारः : B2 विवादस् । 750[5] स्वोक्तस्य : B2 स्वोक्त । 752[3] उपधिं : M1 उपधिश् । 752[5] ततो ... निवर्त्यं : M1 om ।

[6]योगी विश्रम्भघाती तत्कृतं विक्रयादि निवर्तयेदित्यर्थ इति हलायुधः ।

[7]तथा -

753 बलाद्दत्तं बलाद् मुक्तं बलाद्यच्चापि लेखितं ।
सर्वान् बलकृतानर्थानकृतान्मनुरब्रवीत् ॥[M 8.168]

[1]नारदः -

754 स्त्रीषु रात्रौ बहिर्ग्रामादन्तर्वेश्मन्यरातिषु ।
व्यवहारः कृतोऽप्येष पुनः कर्तव्यतामियात् ॥ [NMā 1.43]

[1]तथा -

755 सत्या न भाषा भवति यद्यपि स्यात् प्रतिष्ठिता ।
बहिश्चेद् भाषते धर्मान्नियताद् व्यवहारिकात् ॥ [NMā 2.15]

[1]या नियतव्यवहारिकधर्मबाह्यविषया भाषोच्यते सा प्रतिष्ठितापि लेख्यादिप्रमाणवत्यपि सत्या न भवति । [2]तया योऽर्थः प्रतिपाद्यते असौ नानुष्ठेयो यथा पुत्रादिमन्तं कश्चिदभियुङ्क्ते अनेन सर्वस्वं मम दत्तमित्यादि ।

[3]मनुः -

756 मत्तोन्मत्ताध्यधीनैश्च बालेन स्थविरेण वा ।
असम्बद्धकृतश्चैव व्यवहारो न सिध्यति ॥ [M 8.163]

[1]अध्यधीनो दासः । [2]असम्बद्धोऽनधिकारी ।

[3]याज्ञवल्क्यः -

757 बलोपधिविनिर्वृत्तान् व्यवहारान्निवर्तयेत् ।
स्त्रीनक्तमन्तरागारबहिःशत्रुकृतांस्तथा ॥ [Y 2.31]

[1]बहिर्व्यवहारोचितप्रदेशात् ।

[2]नारदः -

758 यद् बालः कुरुते कार्यमस्वतन्त्रस्तथैव च ।
अकृतं तदपि प्राहुः शास्त्रे शास्त्रविदो जनाः ॥ [N 1.39]

752[6] विश्रम्भ॰ : B1 विस्रम्भ। 752[6] विक्रयादि : B2 विक्रयादिकं। 755[2] नानुष्ठेयो : B2 नानुष्ठेयः । 757 ॰नक्त॰ : B1 कृत । 757 ॰गार॰ : B1 गेह । 757[1] बहिर्व्यव॰ : B1 बहिः व्यव। 758 कार्यमस्व॰ : M1 कार्यं न स्व।

759 स्वतन्त्रो ऽपि हि यत्कार्यं कुर्यादप्रकृतिं गतः ।
तदप्यकृतमेवाहुरस्वतन्त्रः स हेतुभिः ॥ [N 1.40]

760 कामक्रोधाभिभूतार्ता भयव्यसनपीडिताः ।
रागद्वेषपरीताश्च ज्ञेयास्त्वप्रकृतिं गताः ॥ [N 1.41]

761 तथा दासकृतं कार्यमकृतं परिचक्षते ।
अन्यत्र स्वामिसंदेशात् न दासः प्रभुरात्मनः ॥ [N 1.29]

762 पुत्रेण च कृतं कार्यं यत्स्यादच्छन्दतः पितुः ।
तदप्यकृतमेवाहुर्दासः पुत्रश्च तौ समौ ॥ [N 1.30]

[1] अस्वतन्त्रग्रहणाल्लब्धे ऽपि बाले पुनर्बालग्रहणं पित्रोरभावे ऽपि बालस्यास्वातन्त्र्यप्रतिपादनार्थं । [2] एतच्च कुटुम्बभरणातिरिक्तपरं, [3] कुटुम्बार्थं ऽध्यधीनो ऽपीत्यग्रिमवाक्यात् ।

[4] प्रकृतिः स्वभावः । [5] अप्रकृतिं गतः अस्वभावस्थ इत्यर्थः ।

[6] अच्छन्दत इति पितुश्छन्दं इच्छां विनेत्यर्थः ।

[7] कात्यायनः -

763 न दोत्रगृहदासानां दानाधमनविक्रयाः ।
अस्वतन्त्रकृताः सिद्धं प्राप्नुयुर्नानुवर्णिताः ॥ [K 467]

[1] नानुवर्णिता अननुमताः । [2] स्वतन्त्रेणेति शेषः ।

[3] नारदः -

764 स्त्रीकृतान्यप्रमाणानि कार्याण्याहुरनापदि ।
विशेषतो गृहक्षेत्रदानाधमनविक्रयाः ॥ [N 1.26]

765 एतान्येव प्रमाणानि भर्ता यद्यनुमन्यन्ते ।
पुत्रः पत्युरभावे वा राजा वा पतिपुत्रयोः ॥ [N 1.27]

766 कुले ज्येष्ठस्तथा श्रेष्ठः प्रकृतिस्थश्च यो भवेत् ।
तत्कृतं स्यात्कृतं कार्यं नास्वतन्त्रकृतं कृतं ॥ [N 1.42]

[1] अनापदीत्यनेनापत्प्रतीकारार्थं स्त्रीकृतान्यपि प्रमाणान्येवेत्युक्तं । [2] प-

---

759 °स्वतन्त्रः स : B2 स्वातन्त्र्यस्य । 761 °संदेशात् : B2 संदेशान् । 762 °हुर्दासः : B2 हुः दासः । 762[1] °ग्रहणाल् : B2 ग्रहणात् । 762[2] °तिरिक्तपरं : B2 तिरिक्तं । 762[3] °पीत्य° : M1 पि इत्य । 763[1] नानुवर्णिता अननुमताः : B2 अनुवर्णिता अनुमताः । 766[1] °त्यनेनाप° : B2 त्यनेन आप ।

तिपुत्रयोरभाव इत्यत्र पुत्रपदेन सपत्नीपुत्रो ऽप्युपलक्ष्यते । [3] तेन तेषा-
ममावे राजेति मन्तव्यं ।

[4]अथ स्वतन्त्रास्वतन्त्रलक्षणं ।

[5] तत्र नारदः -

767 स्वातन्त्र्यं तु स्मृतं ज्येष्ठे ज्यैष्ठ्यं गुणवयःकृतं ॥ [N 1.31cd]

[1] तथा -

768 अस्वतन्त्राः प्रजाः सर्वाः स्वतन्त्रः पृथिवीपतिः ।
अस्वतन्त्रः स्मृतः शिष्यः आचार्ये तु स्वतन्त्रता ॥ [N 1.33]

769 अस्वतन्त्राः स्त्रियः सर्वाः पुत्रा दासाः परिग्रहः ।
स्वतन्त्रस्तत्र तु गृही यस्य तत्स्यात्क्रमागतं ॥ [N 1.34]

770 गर्भस्थैः सदृशो ज्ञेय आष्टमाद्वत्सराच्छिशुः ।
बाल आ षोडशाद्वर्षात् पौगण्डश्चापि गद्यते ॥ [N 1.35]

771 परतो व्यवहारज्ञः स्वतन्त्रः पितरावृते ।
जीवतोर्न स्वतन्त्रः स्यात् जरयापि समन्वितः ॥ [N 1.36]

772 तयोरपि पिता श्रेयान् बीजप्राधान्यदर्शनात् ।
अमावे बीजिनो माता तदभावे तु पूर्वजः ॥ [N 1.37]

[1]तयोः पित्रोः ।

[2]एतच्च स्वातन्त्र्यास्वातन्त्र्यप्रतिपादनं स्वतन्त्रानुमतिं विना परतन्त्रेण कृतमपि राज्ञा निवर्तनीयमिति प्रतिपादयितुं न त्वदृष्टार्थं, [3]कृतनिवृत्तिसंदंश एव नारदेन लिखनात् । [4] एतदेव स्पष्टयति स एव -

773 स्वतन्त्राः सर्व एवैते परतन्त्रेषु नित्यशः ।
अनुशिष्टौ विसर्गे च विक्रये चेश्वरा मता । इति ॥ [N 1.38]

[1] एते राजादयः पूर्वोक्ताः ।

[2] तदभावे च पूर्वज इति वचनात् पितरावृते इत्यत्र पूर्वजादिकं विनापीति मन्तव्यं ।

[3] अभावे बीजिनो मातेत्यनेन मातुः स्वातन्त्र्यमस्वातन्त्र्यं च पुत्रस्येति प्र-

---

767[1] तथा : M1 om । 768 शिष्यः : B1 शिष्य । 771 स्यात् : B2 स्याज् । 772 तु : M1 पि । 772[2] °पादयितुं : B1 पादनार्थं । 773[2] पितरावृते : B2 पितरावृत ।

तिपादितं यद्यपि तथापि पुत्रः पत्युरभावेति नारदस्वरसादस्वतन्त्रस्यापि पुत्रस्यानुमतिमन्तरेण स्वतन्त्रयापि मात्रा अनापत्काले यत् कृतं कार्यं तन्निवर्तनीयमेव । [4] न चैवं पुत्रानुमतिरदृष्टार्था स्यादिति वाच्यं । [5] पितृपरोक्षो तद्धनस्य पुत्रगामित्वेन तदनुमतेर्दृष्टार्थत्वसम्भवात् ।

[6] शङ्खलिखितौ -

774 अस्वतन्त्राः पितृमन्तः ॥ [ŚL ?]

[1] पितामहे जीवति पितरि पुत्रवत् पारतन्त्र्यं । [2] ततश्च पितामहानुमत्या पितृकृतं कार्यं सिध्यति नान्यथा ।

[3] कनिष्ठोऽपि भ्राता अविभक्तधन एव ज्येष्ठापेक्षया परतन्त्रो न तु विभक्तधनोऽपीत्याह कात्यायनः -

775 पितास्वतन्त्रः पितृमान् भ्राता भ्रातृव्य एव वा ।
कनिष्ठो वाविभक्तस्वो दासः कर्मकरस्तथा ॥ [K 466]

[1] हारीतः -

776 दानार्थे वा धनार्थे वा धर्मार्थे वा विशेषतः ।
आदाने वा विसर्गे वा न स्त्री स्वातन्त्र्यमर्हति ॥ [H 2.15]

[1] क्वचित् कार्ये अस्वतन्त्रा अपि ते प्रमाणमित्याह कात्यायनः -

777 प्रमाणं सर्वं एवैते पण्यानां क्रयविक्रये ।
यदि संव्यवहारं प्राक् कुर्वन्तो ह्यनुमोदिताः ॥ [K 468]

778 पौत्रादीनां तथैव स्युर्भ्राता भ्रातृसुतः सुतः ।
निसृष्टाः कृत्यकारणे गुरुणा यदि गच्छता ॥ [K 469]

779 निसृष्टार्थस्तु यो यस्मिन् तस्मिन्नर्थे प्रभुस्तु सः ।
तद्भर्ता तत्कृतं कार्यं नान्यथा कर्तुमर्हति ॥ [K 470]

[1] निसृष्टार्थं विवृणोति बृहस्पतिः -

780 यः स्वामिना नियुक्तस्तु धनायव्ययपालने ।
कुसीदकृषिवाणिज्ये निसृष्टार्थस्तु स स्मृतः ॥ [B 9.29]

781 प्रमाणं तत्कृतं सर्वं लाभालाभव्ययोदयं ।

773[3] यत् कृतं : B1 कृतं यत्। 773[5] °दृष्टार्थत्वसम्भवात् :B1 दृष्टार्थत्वात्। 774[1] पितरि : M1 पितुरपि । 779 प्रभुस्तु सः : M1 प्रभुस्ततः । 780 कुसीद° : B2 कुषीद ।

स्वदेशे वा विदेशे वा स्वामी तन्न विसंवदेत् ॥[B 9.28]

[1]मनुः -

782 कुटुम्बार्थे ऽध्यधीनो ऽपि व्यवहारं समाचरेत् ।
स्वदेशे वा विदेशे वा तं ज्यायान्न विचालयेत् ॥ [M 8.167]

[1]अध्यधीनः परतन्त्रः पुत्रदासादिः । [2]समाचरेत् कुर्यात् । [3]तादृशार्थे स्वाम्यनुमत्यपेक्षापि नेति भावः । [4]ज्यायान् स्वतन्त्रः पित्रादिः ।

[5]कात्यायनः -

783 सुतस्य सुतदाराणां वशित्वमनुशासने ।
विक्रये चैव दाने च वशित्वं न सुते पितुः ॥[K 471]

[1]एतेन -

784 अनुशिष्टौ विसर्गे च विक्रये चेश्वरा मता [N 1.38cd]

[1]इति नारदीयं दानविक्रययोः प्रभुत्वप्रतिपादनं पुत्रत्वेन दानविक्रयपरं अतो न विरोध इत्येके । [2]पुत्रस्यानुमतौ पितुस्तद्दानादौ प्रभुत्वमननुमतौ त्वप्रभुत्वमिति सम्प्रदानः ।

[3]इति महाराजाधिराजश्रीदर्पनारायणात्मज-
महाराजाधिराजश्रीहृदयनारायणानुज-
महाराजाधिराजश्रीहरिनारायण-
विरचिते व्यवहारचिन्तामणौ
निर्णयपादः ।

[4]इति महामहोपाध्यायसन्मिश्रश्रीवाचस्पतिकृतौ
व्यवहारचिन्तामणिः सम्पूर्णः ।

- - - - - - - - - -

782[1-4]अध्यधीनः ... पित्रादिः : B1 om । 782[3] तादृशार्थे : M1 तादृशे ऽर्थे । 784[1] °पादनं : B1 पादनार्थं । 784[1] विरोध : B2 विरोधः । 784[3] इति ... निर्णय : B1B2 इति निर्णय। 784[4] °सन्मिश्र° : M1 मिश्र LCM2 सर्वशास्त्रपारग । 784[4] °वाचस्पति° : LCM2 वाचस्पतिमिश्र । 784[4] °कृतौ : B1B2 विरचितौ । 784[4] सम्पूर्णः : B1 सम्पूर्णमगात् LCM2 समाप्तः ।

T R A N S L A T I O N

0 [1] Glory to Gaṇeśa!

1 After worshipping Nandanandana (= Kṛṣṇa), and

-------- -----------------

BIBLIOGRAPHICAL NOTE. The following list of books and articles contains studies on the subject-matter of Vyci in modern languages only. The Sanskrit texts referred to in the Notes and elsewhere have been included in the list of Abbreviations. The references to the present list in the Notes will be made by means of the letters in square brackets mentioned against them below; to avoid all confusion with the other bibliographical list in the first paragraph of the Introduction (references to which occur in that paragraph only) other letters have been used here. As to books of a more general character in which legal procedure as a whole or one of its aspects form part of the subject-matter, only those on Hindu institutions or Hindu law have been incorporated, not those on Hindu culture, history, etc.

[O] 1828. Colebrooke, H.T. On Hindu Courts of Justice. In: Miscellaneous Essays. New ed. by E.B.Cowell. Vol.I,p.490-527. London 1873.

[P] 1890. Jolly,J. Beiträge zur indischen Rechtsgeschichte. 3. Theorie und Praxis in dem altindischen Gerichtsverfahren. In: ZDMG 44(1890),p.339-62.

[Q] 1891. Kohler, J. Altindisches Prozessrecht. Mit einem Anhang: Altindischer Eigenthumserwerb. Stuttgart 1891.

[R] 1896. Jolly, J. Recht und Sitte (einschliesslich der einheimischen Litteratur). In: Grundriss der indo-arischen Philologie und Altertumskunde, Band II,8. Strassburg 1896.
5. Das Gerichtsverfahren. P.132-48.

[S] 1909. Mazzarella, G. Studi di Etnologia Giuridica. Volume Secondo: Le antiche Istituzioni processuali dell'India. Catania 1909.

[T] 1909. Sen, P.N. The General Principles of Hindu Jurisprudence (Tagore Law Lectures 1909). Calcutta 1918.
Lecture xiii. Adjective Law. P.361-73.

[U] 1914. Law, N.N. Studies in Ancient Hindu Polity. Vol.I. Bombay 1914.
Chapter viii. The Courts of Justice. P.117-21. Chapter ix. Legal Procedure. P.122-35.

[V] 1914. Ramanathan, A.V. Administration of Criminal Justice in Ancient India. In: QJMS 5(1914-15),p.80-94.

[W] 1916. Banerjea, P.N. Public Administration in Ancient India. London 1916.
Chapter xii. The Administration of Justice. P.141-72.

[X] 1917. Jayaswal, K.P. Manu and Yājñavalkya. A Comparison and a Contrast: a Treatise on the Basic Hindu Law (Tagore Law Lectures 1917). Calcutta 1930.
Lecture vi. The Law Courts and Pleadings. P.110-24. Lecture vii. Law of Evidence. P.125-43.

[Y] 1924. Anand, C.L. An Introduction to the History of Government in India. Part I: The Hindu Period. Lahore 1924.

----

i(E) Law and Administration of Justice. P.303-72 passim.

[Z] 1924. Jayaswal, K.P. Hindu Polity. A Constitutional History of India in Hindu Times. Calcutta 1924, 2nd ed. Bangalore 1943.
Chapter xxxii. Law and Administration of Justice. P.323-31.

[AA] 1927 -30. Pantulu, J.R. Judicial Procedure in Ancient India. In: QJAHRS 2(1927-28),p.105-29; 4(1929-30),p.33-45.

[BB] 1928. Srikantan, K.S. Administration of Justice in Ancient India. In: Mysore University Magazine 12(1928),p.270-85. (It has proved impossible to trace a copy of this journal.)

[CC] 1929. Dikshitar, V.R.Ramchandra. Hindu Administrative Institutions. Madras 1929.
Chapter v. The Department of Justice. P.215-69.

[DD] 1930. Jha, G.N. Hindu Law in its Sources. Two volumes. Allahabad 1930.1933.
Chapter iii. Judicial Procedure.P.49-92. Chapter iv. Evidence. P.93-131.

[EE] 1932. Dikshitar, V.R.Ramchandra. The Mauryan Polity. Madras 1932.
Chapter iv, Section iv. Administration of Justice. P.160-76.

[FF] 1932. Govindasvami, S.K. Administration of Justice in Cōḷa Times as seen in the Periyapurāṇam. In: JOR 6(1932),p.83-88.

[GG] 1945. Varadachariar, S. The Hindu Judicial System. (Radha Kumud Mookerjee Endowment Lectures, 1945.) Lucknow 1946.

[HH] 1946. Kane, P.V. History of Dharmaśāstra (Ancient and Mediaeval Religious and Civil Law). Vol.III. Poona 1946.
Chapter xi. Vyavahāra (Law and Administration of Justice). P.242-316. Chapter xii. Bhukti or Bhoga (Possession). P.317-29. Chapter xiii. Witnesses. P.330-60. Chapter xiv. Ordeals. P.361-78. Chapter xv. Decision. P.379-410.
Incidentally the other volumes of this work will also be referred to: Vol.I Poona 1930. Vol.II Poona 1941. Vol.IV Poona 1953.

[II] 1952. Dikshitar, V.R.Ramchandra. The Gupta Polity. Madras 1952.
Chapter iv, Section iv. Administration of Justice. P.180-89.

[JJ] ? Rao, B. Guru Raja. Ancient Hindu Judicature. (No other data could be collected about this book.)

Studies relative to separate parts of Vyci.

Part III.

[KK] 1933. Thakur, A. Hindu Law of Evidence or A Comparative Study of the Law of Evidence according to the Smṛtis. Calcutta 1933.

Part III. Section A.

[LL] 1927. Sastry, R.Shama. Truth in Ancient Legal Procedure. In: Half Yearly Journal of Mysore University 1(1927),p.112-14.

Part III. Section B.

[MM] 1879. Führer, A.A. Darstellung der Lehre von den Schriften in Bṛhaspati's Dharmaçāstra. Ein Beitrag zum Schriftwesen im alten Indien. Leipzig 1879.

Part III. Section C.

[NN] 1909. Sen, P.N. The General Principles of Hindu Jurisprudence (Tagore Law Lectures 1909). Calcutta 1918.
Lecture iv. The Law of Prescription. P.103-24.

[OO] 1930. Thakur, A. Proof of Possession under the Smṛtis. In: ABORI 9(1929-30), 301-35.

Part III. Section E.

[PP] 1788. Khan, A.I. On the Trial by Ordeal among the Hindus, communicated by Warren Hastings. In: Asiatic Researches 1(1788),p.389-404.

[QQ] 1855. Stenzler, A.F. Die indischen Gottesurtheile. In: ZDMG 9(1855),p.661-82.

after closely inspecting the (existing) treatises, the learned Śrī Vācaspati (now) composes the Vyavahṛticintāmaṇi.

2 In addition to the general instructions it describes legal procedure in its four parts: plaint, reply, trial, and decision, (legal procedure) the object of which is truth.

[1] (INTRODUCTION.)

The first to be expounded among these are the general instructions.

[RR] 1866. Schlagintweit, E. Die Gottesurtheile der Inder. München 1866.

Part IV. The Certificate of the Decree.

[SS] 1887. Brandes, J. Een Jayapattra of Acte van eene Rechterlijke Uitspraak. Weltevreden 1887.

[TT] 1920. Jayaswal, K.P. A Judgment of a Hindu Court in Sanskrit. In: JBORS 6 (1920), p.246-58.

[UU] 1921. Notes on the Judgment of a Hindu Court. I. A Javanese Jayapatra, by J. Jolly. - II. A Note on Sanskrit Judgments, by G. Jha. - III. The Unexplained Passage, by K.P. Jayaswal. In: JBORS 7(1921), p.117-24.

Patria Potestas.

[VV] 1909. Sen, P.N. The General Principles of Hindu Jurisprudence (Tagore Law Lectures 1909). Calcutta 1918.
Lecture viii. Parental Relationship. P.230-66. (About the father's right to sell and donate his son, cf. p.251-56.)

[WW] 1923. Chatterjee, N.C. Patria Potestas in Ancient India. In: Proceedings and Transactions of the Second All-India Oriental Conference (1923), p.365-77.

1 The (existing) treatises. The nibandhas which Vāc has in mind here can be gathered per analogiam from similar introductory verses in his other works. They are: Kṛtyakalpataru, Pārijāta, Ratnākara, etc. Cf. Tci 1, Vci 1.

1 Notice the unusual title Vyavahṛticintāmaṇi (as against Vyavahāracintāmaṇi elsewhere: 115.2; 167.2; 695.3; 784.3-4). This variant was necessary, because the normal title would not fit in the āryā-metre of the verse. Such metrical adaptations in the titles of works are not uncommon. E.g., Kṛtyadīpa for Kṛtyapradīpa (cf. Jayaswal, K.P. and Prasad, A. Mss in Mithilā I, p.67).

2 General instructions. This unusual meaning given to upadeśa is based upon the statement 2.1, where it is said that the upadeśa should be treated first. The term applies to the introductory part of the book, which has been called vyavahāramukha elsewhere (86.1; cf. also Ssā 85b1-2), and which is more commonly referred to as vyavahāramātṛkā.

(THE ORIGIN OF LEGAL PROCEDURE.)

About the time when legal procedure originated, NĀRADA says:

3 At the time when men were disposed towards the sacred law only and when they spoke nothing but truth, there was no legal procedure, nor was there hatred or covetousness. [NMā 1.1]

4 When people violated the sacred law, legal procedure was revealed, and the examiner of legal procedure was the king who himself holds the rod (of punishment). [NMā 1.2]

[1]'Legal procedure' = a lawsuit.

[2][N Mā 1.2] 'When people violated the sacred law' = in the Kali age. - [3]'Who holds the rod (of punishment)' expresses the idea that he is the foremost chastiser.

[4](THE CHIEF ADMINISTRATOR OF JUSTICE: THE KING.)

YĀJÑAVALKYA:

5 If the king punishes those who deserve punishment and if he duly puts to death those who deserve capital punishment, the result is the same as if he had performed a sacrifice with offerings of a hundred thousand sacrificial fees. [Y 1.359]

[1]'Duly' = in accordance with the prescriptions (of the sacred law).

6 While he, thus, keeps in mind that the result

4.2 The Kali age. The Kali age is the last one in a cycle of four which together form a mahāyuga (= a 'great age'), a thousand of which are equal to a kalpa, etc. The Kali age, in which we live at present, is considered to be an age of degeneration and of many evils which did not exist in the previous ages. [Cf. HH, vol. III Chapter xxxiv. Kalivarjya (Actions forbidden in the Kali Age), p. 885-968.]

4.3 Foremost. As will be seen below (cf. 30-32) Hindu Law has a complete hierarchy of lawcourts, of which the court presided over by the king is the highest one.

5 Hundred thousand. YBkrī 1.355 explains as follows. If the term sahasraśata is intended to mean "hundred thousand", Y refers to the rājasūya-sacrifice. [Cf. Hillebrandt, A. Ritual-literatur. Strassburg 1901. P.147, where a sacrificial fee of as many as 240.000 cows has been mentioned.] It is also possible to interpret the verse as a simultaneous reference to two sacrifices: (1) the agniṣṭoma etc., with a sacrificial fee of a hundred cows [cf. Caland, W. et Henry, V. L'Agniṣṭoma. Paris 1906-07. P.290], and (2) the abhijit etc., in which a thousand cows are given as a sacrificial fee.

is equal to that of a sacrifice, the king should daily investigate the legal procedures one after the other, he himself being surrounded by judges. [Y 1.360]

[1] KĀTYĀYANA:

7 The king should enter the court and investigate the cases of litigants, modestly dressed, with a concentrated mind, seated, and facing the East. [K 55abcd]

8 When the king examines (cases) with the help of judges who are steadfast, endowed with intelligence, who are brāhmaṇas, conversant with the meaning of the prescriptions of the sacred law and proficient in the prescriptions of politics, [K 57]

9 On account of the sacred law he will reside in heaven, together with the chief judge, the ministers, the brāhmaṇas, the royal priest, and the judges (described in K 57). [K 56]

[1] The sense of K 55abcd is as follows: when their case is investigated by a king whose passion has not been roused, the parties are not disturbed; since under these circumstances the plaint, etc., can be duly produced, the attainment of truth is easy. - [2] The fact that he has to be seated and that he has to face the East serve a spiritual purpose. [3] [K 57ab] 'Steadfast' = whose mind is steadily devo-

---

9 The royal priest. About the institution and the various functions of the purohita, cf. [HH vol.III, p.117-20].

9.2 Serve a spiritual purpose. It is not possible here to enter into the highly complicated discussions of the MĪMĀṂSAKAS on this point, and to compare the points of view held by ŚABARA, KUMĀRILA, and others. In general it can be said that the MĪMĀṂSAKAS and, following them, the authors of the dharmanibandhas make a distinction between two categories of rules in the smṛti. On the one hand there are prescriptions the purpose of which is easily ascertainable (e.g., in the present case: the king should be modestly dressed in order not to intimidate the litigants, for their being intimidated might lead to the impossibility to reach a true decision). On the other hand there are prescriptions for which the human intellect is not capable of finding a valid reason but which are valid, nevertheless, because they are based upon the Veda (e.g., the fact that the king has to be seated and that he has to face the East). The rules of the first category are said to serve a visible, natural, or material purpose, as against those of the second category which serve an invisible, supernatural, or spiritual purpose. Although the respective weight of both has been differently valued, in practice the rule applies that, whenever a natural purpose for a prescription can be found, it is not proper to refer to a spiritual one. Cf. [HH vol.III, p.836-41], and SMRI p.235-39.

ted to the sacred law.

[4] [K 57cd] (Note on the relative weight of the sacred law and politics.) K 57cd should be considered applicable to cases in which there is no inconsistency between the prescriptions of the sacred law and the prescriptions of politics. [5]But if there is such inconsistency, the prescription of the sacred law only should be chosen to be followed. [6]Thus it has been said in the BHAVIṢYAPURĀṆA:

10 When smṛti and politics are inconsistent, the prescription of politics is superseded (by smṛti); in case of mutual inconsistency, however, that rule is authoritative which is in accordance with equity.

[1]'Smṛti' = the prescriptions of the sacred law, such as the Manusaṃhitā, etc. - [2]'Politics' = the prescriptions of politics, such as the art of governing, etc. [3]Bhpu cd means: when two prescriptions of the sacred law themselves, however, are inconsistent, and they cannot be reconciled by 'different fields of application' and similar (rules of interpretation), the rule which is devoid of equity is superseded (by the other one).

[4]NĀRADA also says:

11 When the prescriptions of the sacred law are at variance, the injunction consistent with reason is considered (to supersede the others); for vyavahāra is more valid and supersedes the sacred law. [NMā 1.40]

[1]'Vyavahāra' = reason.

[2][K 56] 'The chief judge' will be discussed later (cf. 22[5]-25).

[3]'When (the king) examines' = when he duly investiga-

10.3 Different fields of application. This rule of interpretation, which is of constant application in the dharmanibandhas, can be illustrated by means of the following example taken from Vyci itself. In Part III, Section C, on Possession, a number of apparently inconsistent texts will be quoted, some of which recognize possession of long standing without a title as a valid means of proof of ownership (cf. 454, 455, 460), whereas others require title as a conditio sine qua non for possession to serve the same purpose, however long it may be (cf. 458, 461, 462). Vāc removes this inconsistency by means of 'different fields of application': the former group of texts apply to cases where it is not certain whether a title can be produced, whereas the latter group refer to the cases where a title is certainly available.

tes. That means: on account of the spiritual merit accruing from a (correct) investigation, the king abides in heaven 'together with them' = together with his assistants in the investigation.

[4]NĀRADA:

12 The king is the assistant of the sacred law when two people are engaged in a lawsuit; he should investigate cases accurately, free from affection or hatred. [NQ 1.4]

13 In a self-restrained king who dispatches legal procedures according to the sacred law, seven virtues meet, just as seven flames meet in the fire. [NMā 1.32]

14 The sacred law, material prosperity, fame, wordly obedience, great regard on the part of his subjects, and an eternal abode in heaven [NMā 1.33]

15 Therefore, when the king sits down on the seat of the sacred law, let him be impartial towards all beings, carrying as it were the vow of the son of Vivasvat. [NMā 1.34]

[1][N Mā 1.32] 'Who dispatches' = who decides accurately.
[2][N Mā 1.33] 'Wordly esteem' = the fact that he is praised among men. - [3]'Obedience' = the fact that he is to be followed.
[4][N Mā 1.34] 'The vow of the son of Vivasvat' = impartiality towards all beings.

[5]YAMA:

16 The king should not perform anything that is in contradiction with śruti and smṛti and that is

---

13 Dispatches. Lit. 'removes, extracts'. The verb uddharati is used for 'dispatching' legal procedures metaphorically: just as a competent physician extracts [uddharati] a dart from the patient's body by means of his surgical instruments, in the same way the king or the chief judge extracts 'the dart of sin' by means of legal procedure (NAhā Mā 3.16).

13 Seven flames. Both in the Lexica and in the classical texts the term saptārcis often occurs as a synonym for fire or for the god of fire. Jolly (N tr.,p.14) says: "The idea that fire is composed of seven rays or flames is derived, no doubt, from the seven rays of the sun-god Sūrya, who is represented down to the present day as riding in a chariot drawn by seven horses".

15.4 The vow of the son of Vivasvat. The son of Vivasvat is Yama, the god of the dead, who distributes reward or punishment according to one's good or bad actions, respectively.

noxious to living beings, and when it is performed he should ward it off. [Ya ?]

17 If from ignorance another king has done anything that is inconsistent with a principle of equity, the king should subject this also to a new judgment prescribed by the sacred tradition. [Ya ?]

[1] 'The sacred tradition' = the Veda.

[2] (SUBSTITUTION OF THE KING.)

If he himself is incapable of examining legal procedures, he should appoint a virtuous brāhmaṇa who is capable of doing so. [3] Thus KĀTYĀYANA says:

18 When the king for some reason does not himself examine the decision of cases, he should appoint a learned brāhmaṇa who is well versed in the Vedas, [K 63]

19 Who is restrained, of good family, impartial, who does not cause apprehension, steadfast, who is dreading the hereafter, who lives according to the sacred law, who is assiduous, and free from anger. [K 64]

[1] [K 63] 'For some reason' = because of other royal duties. - [2] 'The decision of cases' = (the four parts of legal procedure:) the plaint, the reply, etc. - [3] 'Learned' = whose mind is trained in logical speculations which are not in contradiction with the Veda. - [4] 'Well versed in the Vedas' = who has studied the prescriptions of the sacred law.

[5] [K 64] 'Restrained' = who endures the pain of austerities. - [6] 'Of good family' = who descends from a mother and a father in such a way that he is free from such defects as mixture (of castes), etc. - [7] 'Impartial' = equally disposed towards everybody. - [8] 'Who does not cause apprehension' = who does not

---

19.6 Mixture(of castes). There is no uniformly accepted definition for the concept of 'mixture of castes' [varṇasaṃkara]. However, all texts agree that varṇasaṃkara is the result of a marriage between people belonging to different castes, whether it refers to the fact of the marriage itself, or to the children born of such marriage. Sometimes the concept has been limited to marriages in which the husband is of a lower caste than his wife (pratiloma: note 605), whereas in other texts it has been applied to marriages in which the husband is of a higher caste than his wife as well (anuloma). The general name used for all people born of varṇasaṃkara is vrātya [cf. HH vol.II,p.59-61].

out of covetousness commit verbal assault, etc. - [9] 'Steadfast' = who cannot be attracted by greediness, etc. - [10] 'Who is dreading the hereafter' = who is always fearful of the other world. - [11] 'Who lives according to the sacred law' = who keeps to the acts prescribed for his caste and for his stage of life. - [12] 'Assiduous' = active. - [13] 'Free from anger' = free from such anger that would prevent the investigation of truth.

[14] In the absence of a capable brāhmaṇa a kṣatriya should be appointed; in the absence of the latter, a vaiśya. Thus THE SAME AUTHOR says:

20 If there is no learned brāhmaṇa, he should appoint for the purpose either a kṣatriya or a vaiśya versed in the prescriptions of the sacred law; he should carefully avoid a śūdra. [K 67]

[1] MANU:

21 The kingdom of the king for whom a śūdra performs the investigation of the sacred law sinks down under his eyes like a cow in the mud. [M 8.21]

[1] VYĀSA:

22 The kingdom of the king who disregards the Twice-born and examines cases together with vṛṣalas is shaken on its foundations, and his army and treasury are destroyed. [Vy 1.5]

[1] Thus the assistance of vṛṣalas is excluded in the investigation (of lawsuits).

19.8 Verbal assault, etc. The fact that some wrongs cause apprehension has been used as a criterion to distinguish them from others which do not. It is one of the criteria to come closest to the distinction between civil and criminal offences. The offences which cause apprehension are: verbal and physical assault, theft, adultery, and violence (up to murder). Cf. Dvi 32-33.

22.1 Vṛṣalas. It is difficult to know, whether 22.1 has been intended to sum up 22 only or 20-22 as a whole, i.e., whether Vāc considered vṛṣalas to be different from śūdras or identical with them, respectively. Acc. to S.K.Bose [Vṛṣala. In: IC 2(1935-36),p.597] the term vṛṣala originally denoted a person of any caste "who neither performed Brahmanic rites nor respected the priests who championed the orthodox religion". In later times it came to be identified with śūdra.

[2] (THE CHIEF JUDGE.)

BṚHASPATI:

23 Cases should be examined either by the king or by the chief judge, a Twice-born, thereby keeping in view the principles of equity and adhering to the opinions of the judges and to the prescriptions (of the sacred law). [B 1.65]

24 In a lawsuit he puts question and counter-question; he speaks first in a friendly way. Therefore he is said to be the prāḍvivāka (= chief judge). [B 1.69]

[1] VYĀSA:

25 Together with the judges he exerts himself by putting the questions [pṛṣṭvā] that are necessary for the investigation; then he investigates [vicārayati] with the help of the data gathered therefrom. Therefore he is called the prāḍvivāka. [Vy 1.7]

[1] This, however, is only the etymological explanation of the term (prāḍvivāka), [2] whereas the main quality of the chief judge is his actual capability of conducting legal procedures.

[3] (OTHER MEMBERS OF THE COURT.)

BṚHASPATI:

26 As an accountant and a clerk the king should

---

23 The principles of equity. Some doubt may be raised about Vāc's interpretation of the term nyāyāṅgāni in B 1.65. Besides the above translation, another interpretation has been suggested by Rra 16, viz. 'fire, water, etc.' Rra probably refers to the elements that have to be present in the court at the time when a case is treated, ten of which have been enumerated as sādhanāṅgāni = 'accessories for the trial' by B 1.87: the king, the chief justice, the judges, the smṛti, the accountant, the clerk, gold, fire, water, and the royal servant.

25.1 The etymological explanation of the term (prāḍvivāka). The etymology given by Vy 1.7 is clear: the chief judge is called prāḍvivāka because of his double function of questioning (pṛṣṭvā) and investigating (vicārayati). B 1.69 probably should be understood in the same way: he puts questions (praśna) and he speaks = conducts the investigation (vadati). In this way, however, the addition of prāg remains unexplained. For this reason Jolly (B tr., p.278) suggested the verse to contain a double etymology: (1) he who asks or examines and afterwards decides; (2) he who speaks gently at first. Cf. Vma notes, p.11.

appoint persons who are well versed in words and vocabulary, who are clever in calculation, who are pure, and who know various scripts. [B 1.81]

27 To summon and to protect the witnesses, the plaintiff and the defendant, he should appoint a genuine man, who is subservient to the judges and veracious. [B 1.82]

[1][B 1.81] 'Words' = grammar. - [2]'Vocabulary' = lexicography.
[3][B 1.82] 'Subservient to the judges' = subservient to the persons who investigate the case. - [4]'A man' = a servant.

[5]KĀTYĀYANA:

28 It should be attended by a small group of merchants who are outstanding with regard to their family, character, age, behaviour, and property, and who are unenvious. [K 58]

[1]The sentence should be construed as follows: 'It' = the session.

(OTHER COURTS OF JUSTICE.)

29 For those who stay in the forest the session should be held in the forest, for the soldiers in the army, and for the merchants in the caravans. [B 1.73]

[1]'The session' = the court.

30 The judges are superior to the families, etc., the chief justice is considered superior to them. [B 1.94cd]

31 The king is superior to all of them; his deci -

----

28 A group. Lit. 'forming a group'. It can only be guessed that this was the meaning given to the word kulabhūta by Vāc (cf. Sca 38, Pdha 31, Mra 9, Vsau 9). He may also have thought of 'elderly people' as found in later works (cf. Vta 199, Vpra 31).

28.1 Construed. Whether one takes the word anvaya in its grammatical sense [cf. Renou, L. Terminologie grammaticale du Sanskrit. Paris 1942. Vol.I, p.43] or in its philosophical sense = vākya [cf. SMRI p.146], its use in this sentence is very uncommon. It normally means the relation between words in one sentence, both words being explicitly mentioned, whereas here it refers to the relation with a word to be supplemented from an unknown source.

sions are part of the sacred law. [B 1.95ab]
Along with their power to investigate minor, medium, and major lawsuits respectively, [B 1.95cd]

32 their intelligence is gradually greater; at the top stands the intelligence of the king. [B 1.96ab]

[1][B 1.94cd]'Family' = (judges) belonging to the family of both parties. - [2]The word 'etc.' also includes *śreṇis* and *gaṇas*. [3]Of these, *śreṇi* = an association of merchants, etc.; *gaṇa* = an association of brāhmaṇas. - [4]'Judge' = (a judge) appointed by the king, who is qualified (for this position). - [5]'The chief justice' = the *prāḍvivāka*.
[6]B 1.95cd-96ab mean: when these persons (mentioned in B 1.94cd-95ab, starting from the family-judges) up to the king make a decision, that of the following one is always more authoritative (than that of the preceding one), because of the gradual increase of knowledge.

[7]The words of experts should, however, be respected in all cases. [8]Thus NĀRADA says:

33 In the case of merchants, artizans, farmers, and stage-players, a decision is not possible; here persons who themselves know the nature (of these trades) should be charged with it. [NQ 1.5]

[1]This is an illustrative statement; [2] it means, that each and every case must be decided in association with persons who are experts in that field.

[3]Further:

34 Only persons acquainted with the three Vedas should be charged with the cases of ascetics and of those who are versed in witchcraft and yoga. The king should not do this himself, for fear of their anger. [B 1.76]

[1]People of the same kind only should be charged with the investigation of the cases of those of whose anger one is afraid.

[2]MANU:

35 If a king wants to secure his own welfare, he should never settle the sacred law of Twice-born people who are involved in a mutual dis-

pute regarding their stages of life. [M 8.390]
[1]That means: when there is a difference of opinion as to what is prescribed and what is forbidden in the different 'stages of life', i.e., studentship, etc., for fear of the defeated party's anger the king should not determine their respective sacred law even if he had been engaged in the investigation of the case.

36 The king should pay respect to them according to their desert; after first conciliating them with gentle words, then only he should, with the help of brāhmaṇas, set forth their respective sacred law. [M 8.391]
[1]That means: after first appeasing their anger with 'gentle words', with the help of brāhmaṇas only should he set forth their respective sacred law.

[2] INSTRUCTIONS TO THE JUDGES.

[3]About this BṚHASPATI says:
37 When one restores to health those who suffer from the blindness of ignorance and those who
38 are covered with the veil of doubt by means of a peg with the ointment of the prescriptions of the sacred law, one obtains fame and royal worship in this world and one goes to heaven. Therefore, one should try to decide the cases of those who are confused by doubt. [B 1.96cd,97]

[1]On this subject NĀRADA says:
39 He who has not been appointed in a legal procedure should not say anything; but he who has been appointed should deliver an impartial speech. [NMā 3.1]

[1]But a person who knows the prescriptions of the sacred law may speak even when he has not been appointed. [2] Thus THE SAME AUTHOR says:
40 One who knows the prescriptions is always entitled to speak, whether he is appointed or not; he who follows the prescriptions speaks a divine word. [NMā 3.2]
[1]'Divine' = in accordance with the prescriptions of

the sacred law.

[2] BṚHASPATI:

41 If one decides cases according to the injunctions laid down in the prescriptions, avoiding greed, hatred and the like, one obtains the same result as by performing a sacrifice. [B 1.98]

[1] About the duties of the judges when the king does not behave according to the sacred law, KĀTYĀYANA says:

42 When the king enjoins upon litigants an unrighteous order, the judge should warn the king and duly ward it off. [K 78]

43 The judge should speak words that are in accordance with the object of the sacred law; if the king does not listen, the judge at least would be free of guilt in this case. [K 77]

44 But when the judge knows that the mind of the king has deviated from the path of equity, he should not speak merely to please him; when he does so, he is guilty. [K 76]

45 For the assessors should not look on while the king behaves against the sacred law; when they do look on, they go down to hell together with the king. [K 74]

46 If the assessors follow the king when he is about to deviate from the rules of equity, they too share in it; therefore, they should warn the king. [K 75]

[1] [K 78] 'An unrighteous order' = an order that is not in agreement with the sacred law.

[2] [K 76] 'When he does so' means: when he sympathizes with the breach of the sacred law propounded by the king.

[3] K 74 means: if the judge looks on while the king proceeds along the wrong path, he himself is guilty, too.

[4] K 75 means: if the judge follows the king while he proceeds along the wrong path, he himself is guilty, too.

---

43 With the object of the sacred law. Or: 'with both the sacred law and politics' (e.g., Sca 49).

[5]MANU:

47 One quarter (of the guilt) falls upon the perpetrator of the breach of the sacred law, one quarter upon the witness, one quarter upon the assessors collectively, and one quarter falls upon the king. [M 8.18]

[1]'The perpetrator of the breach of the sacred law' = the party. - [2]The word 'king' here refers to any person who conducts the investigation.

[3]KĀTYĀYANA:

48 If the judge knows how a case should be decided correctly, he should speak accordingly; he should not speak otherwise. By doing so he would incur a double punishment. [K 80]

49 If anything has been lost through the error of a judge, he should restore it in the same form; if, however, a case of litigants has been decided in this way, it should be investigated again. [K 81]

[1]K 81cd means: 'if a case has been decided in this way' = if it has been decided incorrectly, it should be investigated again.

[2]BṚHASPATI:

50 Judges should be banished (1) if they utter injustice, (2) if they live on bribery, (3) if they betray other people's confidence. [B 1.107]

[1]VIṢṆU:

51 52 The entire property should be confiscated of (1) false witnesses and (2) judges who live on bribery. [Vi 5.179,180]

[1]BṚHASPATI:

53 A false judge, a false witness, and the murderer of a brāhmaṇa are said to be equally deep in guilt. [B 5.34ab]

---

47 One quarter (of the guilt). The commentators, from MMdhā onward, stress the fact that this verse should not be interpreted literally, as if the guilt corresponding to the offence would be equally divided among the four parties involved. As a matter of fact, the sin incurred by one man cannot go on to another. All four persons mentioned in this verse have committed different sins and they are guilty accordingly.

Equally so, however, (the prāḍvivāka or a judge) who privately converses with a party before the case has been decided. [B 1.102ab]

[1] (ETYMOLOGY OF THE TERM VYAVAHĀRA.)

The term vyavahāra (= legal procedure) is analysed as follows by KĀTYĀYANA:

54 Vi means 'various', ava means 'doubt', hāra is 'removal'; legal procedure is called by the term vyavahāra because 'it removes various doubts'. [K 26]

[1] (TWO KINDS OF LEGAL PROCEDURE.)

It is of two kinds, [2] as NĀRADA says:

55 Know that legal procedure is of two kinds: (1) attended with a wager, and (2) not attended with a wager; the one attended with a wager (is different from the other one) because in addition a wager is placed before (the plaint is put in writing). [NMā 1.4]

[1] A legal procedure is 'attended with a wager', if before writing down the plaint a wager is placed like this: "The one who is defeated here will give so much to the winner by way of punishment".

[2] In a lawsuit attended with a wager the defeated party should be forced to pay both the wager and the punishment; thus THE SAME AUTHOR says:

56 As far as a lawsuit attended with a wager is concerned, the party who is defeated in it should be forced to pay the wager he has made

---

55.1 To the winner. There seems to be some confusion in the texts with regard to the person who is to be the beneficiary of this wager. Whereas acc. to Vāc it goes to the winner (cf. also Vmāt 283), others mention the king (Vpra 5; cf. [Q, p.18]), while others again point to both the winner and the king simultaneously (Pdha 9). Acc. to Jolly [P,p.343] this contradiction is due to the fact that originally the winner of the lawsuit was the main beneficiary, whereas a minor portion only was allotted to the mediator. Later, however, the judges used to claim the entire amount as their fee. P.N.Banerjea [W,p.154], on the other hand, thinks that the custom of a wager, which has been mentioned by N only, was the mere remembrance of a practice which had died out long ago.

and he should be punished for his defeat. [NMā 1.5]

[1](WHERE AND WHEN IT SHOULD BE CONDUCTED.)

As to where and when this legal procedure should be conducted, KĀTYĀYANA says:

57 A king who wants to pull down his enemies should decide the cases in the building of the court, in the morning, according to the way laid out in the prescriptions of the sacred law. [K 60]

[1] (THE FOUR PARTS OF LEGAL PROCEDURE.)

This legal procedure has four parts; thus BṚHASPATI says:

58 The plaint is considered to be the first part, and the reply the second; the trial is said to be the third part, and the decision the fourth. [B 1.17]

[1]Further:

59 Know that it has four parts in case of a denial, in case of an exception, and in case of a former judgment; it has two parts in cases of confession. [B 2.3]

[1]B 2.3abc should be qualified as follows: when both the plaint and the reply are valid. [2] Consequently, when the plaint does not deserve a reply, there are only two parts: the statement of the plaintiff and the decision. [3] And when the reply is defective, it has only three parts: the plaint, the statement of the defendant, and the decision.
[4][B 2.3d] Objection. In a confession too, there are three parts (and not two as said in B 2.3): the plaint, the reply, and the decision. [5] Refutation. A decision is unnecessary, since the defendant himself accepts the content of the plaint. [6] So he is defeated by his own words, [7] and a third part in the form of making a decision is out of the question.

[8] (BARRED CASES.)

NĀRADA:

60 A legal procedure cannot be instituted between people who are closely related, such as teacher and student, father and son, husband and wife, master and servant. [NQ 1.6]

61 The wise declare barred the plaint of one man against many, against women, or against servants. [NQ 1.7]

62 The following cases have been declared barred: (1) the case that has been rejected by the king; (2) the one directed against the citizens of a town, the whole kingdom, or the elements

63 of the state; (3) all others which are directed against towns, villages, or great men. [B 2.43, 32 = H 1.38,39]

[1] (INSTITUTION OF A LEGAL PROCEDURE.)

YĀJÑAVALKYA:

64 When one is aggrieved by others in a way which is opposed to smṛti and good conduct, and one reports the matter to the king, this is a 'basis for legal procedure'. [Y 2.5]

[1] The prima facie view in this is the part of the plaint, [2] which must be produced by the plaintiff.

60-61 YMtā 2.32 explains at great length that the rules of N Q 1.6-7 are not applied without limitations. They are not intended to prescribe an absolute interdiction of such lawsuits, since the latter actually do occur. Cf. also [Q, p.17-19].

62 Rejected by the king. Cf. note 110.

62 The elements of the state. It is generally accepted that the Hindu state is constituted by seven elements [prakṛti]. They are: the king, the ministers, the territory and the people, the fortified city, the treasury, the army, and the allies. This meaning of the term has been explained by YApa 1.351 as follows: "That out of which an object is produced is its material (or element). E.g., gold for an ear-ring. A kingdom cannot be produced without a king, etc., and even if produced it cannot last without them. Therefore the king etc., are the elements of the kingdom".

64.2 Must be produced by the plaintiff. Though it has not been stated here, it must be assumed that this rule applies when both parties have a claim against one another and both are, thus, plaintiff and defendant simultaneously. Some nibandhas have very elaborate rules on this matter.

[3]The status of a plaintiff is assigned to that party who has suffered the greatest damage, [4]and this damage is estimated from (the amount of) the goods he was deprived of or on the basis of (the importance of) the frustration of the activity he had undertaken, but it is not assigned because of the mere fact that he reports first. [5]Thus VYĀSA says:

65 The status of a plaintiff should be assigned to him who suffered the greatest damage or also to him who had undertaken the greatest work, not to him who reports first. [Vy ?]

[1](DETENTION OF THE DEFENDANT.)

NĀRADA:

66 When (the defendant) does not stay nearby when the case is to be presented and when he disregards (the plaintiff's) words, the latter should detain him in view of the lawsuit until the summons has been issued. [NMā 1.47]

67 If a person who has been detained at a proper time trespasses the detention, he should be punished; if the person who detains him acts improperly, it is he who deserves a punishment. [NMā 1.51]

[1]'Who detains him' = the plaintiff who detains the defendant when he proves averse to the lawsuit.

[2]Further:

68 If a person is detained while crossing a river, in a wilderness, in an unwholesome place, in a period of a calamity, etc., and afterwards he disregards this detention, he would not thereby commit an offence. [NMā 1.49]

65.1 Detention of the defendant. Kohler [Q,p.10] considers the practice of āsedha as a remnant of an earlier stage in the evolution of the Hindu Law, viz. that of the "Selbsthülfe".
It should be noticed, that Vyci does not mention a detail which has been dealt with in practically all nibandhas, viz. the four different types of āsedha. The defendant can be detained (1) as to place, when he is not allowed to leave a certain area; (2) as to time, when he is not allowed to eat as long as he does not pay his debt (Vka 52, YApa 2.5), or when he is forced to appear on a certain day (Sca 67); (3) as to (his being forbidden to) go on a journey; (4) as to his activity, when he is forbidden to study, to perform his morning or evening worship, etc.

[1]Although the defendants should be brought before the king, some of them should not as long as they are engaged in an activity which inhibits their doing so; thus THE SAME AUTHOR says:

69-71 The following people should neither be detained nor summoned by the king: (1) one who is about to marry, (2) one suffering from a disease, (3) one who is about to perform a sacrifice, (4) one who is suffering from a calamity, (5) one who has been accused by another person, (6) one who is employed upon state affairs, (7) cowherds while tending cows, (8) cultivators while collecting the crops, (9) craftsmen at the time of their work, (10) warriors in combat, (11) a minor, (12) a messenger, (13) one who is about to convey a gift, (14) one observing a vow, and (15) people who are in difficulty. [NMā 1.52-54]

[1](1)'One who is about to marry' = one who is engaged in a marriage. - [2](10) 'Warriors' = people who earn their livelihood through weapons. - [3](11)'A minor' = a person less than sixteen years old. - [4]Such people 'should not be detained' = they should not be restrained by the creditor, etc., and if they have been reported by the plaintiff they may not be summoned by the king until they have completed their activity, [5] since (a detention or a summons) would impede this activity.

[6](THE SUBJECT-MATTER OF THE LAWSUIT.)

KĀTYĀYANA:

72 The king should not conduct a case in which the subject-matter [grahaṇa] has been appropriated (by one party); either it should be handed over to the (other party), or he should deposit it with a third person. [K 120]

[1]The object which is the subject-matter of the lawsuit is called grahaṇa, because it is appropriated [gṛhyate]. [2] In case the defendant is trustworthy, it

---

71 People who are in difficulty. About the exact nature of this 'difficulty' the opinions differ: it may be one caused by the king or by fate (NAhā Mā 1.54), it may consist in one's entire property having been confiscated by the king or stolen by a thief (NMsBhsvā 1.47; Sca 69), or it may be a calamity striking the country (Vta 201).

should be kept with him as long as the investigation lasts; otherwise with an intermediary.

[3] (REPRESENTATION IN LAW.)

If one is unable to attend a lawsuit in person, one should delegate a representative; thus NĀRADA says:

73 If a person appointed by the plaintiff and one authorized by the defendant speak in their place in a certain case, victory and defeat bind both of them. [NMā 2.22]

[1] 'Both of them' = both parties. - [2] So, N Mā 2.22 means: the decision given in respect of the deputy, whether it be victory or defeat, is binding upon the party who deputed him.

[3] BṚHASPATI:

74 In the same way even a person who has not been deputed may speak first or last for the timid, the senseless, for madmen, elderly people, women, children, and diseased persons. [B 1.142]

[1] That means: for them any good man may produce the plaint or the reply, whether he has been deputed or not.

[2] In some cases it is forbidden to delegate a representative; thus KĀTYĀYANA says:

75 A representative is not allowed in case of the murder of a brāhmaṇa, drinking spirituous liquor, theft, intercourse with the wife of one's own teacher, and also in case of other curses. [K 93]

76 In case of manslaughter, theft, adultery, eating forbidden food, rape or violation of an unmarried girl, [K 94]

77 In case of assault, malicious theft, and high treason, a representative should not be allowed, but the perpetrator should plead his cause personally. [K 95]

---

75 Curses. For the technical meaning of the term abhiśāpa, cf. note 179.4.

[1]NĀRADA:

78 He who makes false statements in legal procedures while pleading the cause of another person should be punished, except when he is (the party's) brother, father, son, or express deputy. [NMā 2.23]

[1] (SURETY.)

On their presenting themselves at the hearing a surety should be taken from both parties who approach (the court) for the sake of a decree. [2] Indeed, when his cause is lost, it is possible that even the plaintiff may run away for fear of a punishment. [3] Thus YĀJÑAVALKYA says:

79 For both one should take a surety that is adequate for the decision of the case. [Y 2.10cd]

[1] In the absence of a surety, however, both parties should be watched, [2] as KĀTYĀYANA says:

80 Then, if a party who is qualified to speak (in the court) cannot produce a surety, he should be watched at the end of the day and he should pay a fee for the servant. [K 117]

[1] 'The servant' = the king's servant who watches him.

[2](REVIEW OF JUDGMENT.)

When a party though properly defeated suspects a defect in the investigation and, therefore, requests a review, the lawsuit may be resumed after one has made him accede to a punishment twice as high as the subject-matter of the lawsuit. [3] Thus NĀRADA says:

---

78 Different interpretations have been given for this verse. Jolly's translation of the last quarter as 'and so does he who contradicts himself at the trial' (N tr., p. 29) must be rejected, since the grammatical subject of pāda d is not different from that in the rest of the verse. The other interpretations have been brought about by the different meanings given to vibruvan (cf. YMtāBbha 2.5). Some take vibruvan = bruvan in general, acc. to which the sentence means: 'other people should not speak at all' (Vca 89). The more logical explanation is, that people who are not the party's brother etc., should be punished if they speak untruth, whereas brothers etc. are permitted to defend the party in whatever way possible (cf. Vta 201).

81 If (a litigant) thinks that his case has been tīrita and anuśiṣṭa contrary to the sacred law, it may be taken up again if he agrees to a double punishment. [NMā 1.65]

[1] 'Tīrita' = brought to an end after the decision. - [2] 'Anuśiṣṭa' = announced as such to others.

[3] In the case of a wrong investigation one has a right to another investigation; thus THE SAME AUTHOR says:

82 A case deserves to be reviewed (1) when it has been investigated without witnesses, (2) when it has been concluded in the wrong way, and (3) when it has been investigated by people who did not reach a consensus of opinion. [NQ 1.14]

[1] 'Without witnesses' = without (any) valid means of proof.

[2] (ADJOURNMENTS.)

KĀTYĀYANA:

83 There the plaintiff should speak first, after him the defendant; when they have spoken, however, the assessor; after him the chief judge. [K 21]

[1] An adjournment may be granted to the defendant only, but never to the plaintiff. [2] Thus KĀTYĀYANA says:

84 An adjournment may not be granted to the plaintiff, since he had for a long time decided to institute the case; the defendant, however, may take advantage of an adjournment. [K 134]

[1] NĀRADA:

85 The defendant may take advantage of an adjournment of three days or even five days. [NQ 3.12]

[1] To this BṚHASPATI mentions the following exception:

---

82 People who did not reach a consensus of opinion. Or: 'unauthorized persons' (Jolly, B tr.,p.235). Cf. M 8.197.

86 When the plaintiff dare not speak out of timidity, an adjournment may be granted (the duration of which varies) according to the importance of the case. [B 2.34]

[1]Here ends the Introductory Chapter of legal procedure.

[2]This legal procedure has four parts. [3]Thus BṚHASPATI says:

87 Legal procedure has four parts: the part of the plaint, the part of the reply, the part of the trial, and the part of pratyākalita. [B 2.1]

- - - - - - - - - -

---

87 In this verse the term pratyākalita stands for the fourth part of legal procedure, which is more commonly called nirṇaya = 'decision'. In other places it often means the assignment of the burden of proof to one of both parties (cf. WGJT, p.678). Vāc seems to have more or less consistently preferred the former meaning which is again formulated by him 138.8 (except for 202.1).

(87) [1]PART I : THE PLAINT.

[2](REQUIREMENTS OF A VALID PLAINT.)

About this BṚHASPATI says:

88-89 The experts on plaints say, that a valid plaint is a probandum which is (1) free from the defects of the statement, (2) provided with a valid cause, (3) definite, (4) in accordance with common practice, (5) concisely worded, (6) explicit, (7) free from doubts, (8) free from contradictory causes, (9) capable of meeting opposing arguments. [B 2.14-15]

90 When the plaintiff has produced such a plaint, then the defendant must deliver a reply relative to this plaint. [B 3.1]

[1]('A probandum') They say that a valid plaint is the utterance of a probandum, i.e., of something that deserves to be proved, of a quality-bearer characterized by qualities that deserve to be demonstrated.

90.1 A very similar definition of pratijñā 'as given by the NAIYĀYIKAS' has been referred to Vpra 54: sādhyadharmaviśiṣṭadharmivacanam. This is the first of several passages where we will have the opportunity to point out how strongly Vyci has been influenced by Vāc's training in Nyāya (cf. Introduction, p.6). The plaint has, indeed, been treated as a logical inference which takes the form of the three member syllogism of the Modern School of Nyāya. The stock example of this type of syllogism is as follows: "The mountain is possessing fire because of smoke", in which the three members are: (1) "the mountain" = pakṣa, subject, or minor term; (2) "fire" = sādhya, probandum, or major term; (3) "smoke" = hetu, probans, or middle term. The definition of pratijñā as applied by Vāc and MITRA MIŚRA is found, e.g., in NsūBhā 1.1.33. The example given there is as follows: anityaḥ śabdaḥ, "sound is non-eternal". This statement (originally pratijñā has been used for the first of the five members of the syllogism according to the Old School) is the utterance of a quality-bearer (= sound) which is said to be characterized or qualified by a quality (= non-eternity) which has to be proved, i.e., which is probandum. Cf. also TsaTdī 46(p.39) for a similar definition as applied to the inference: "The mountain is having-fire (because of smoke)". In legal procedure this definition of a 'statement' applies as follows. Take the plaint: "You owe me a hundred coins" = "a hundred coins are due to me by you". This statement mentions a quality-bearer (= a hundred coins) qualified by a quality (= the fact that they

[2]Thus, it means: a valid plaint is the utterance of (the plaintiff's) own opinion.

[3](1) 'Free from the defects of the statement' = free from such defects as contradiction between the statement and its probans, etc.

[4](2) 'Provided with a valid cause' = provided with a probans that does not suffer from an obvious defect. [5]In this way one should take notice of the following. The essential part of the plaint is contained in the words: "You owe me a hundred (coins), since you appropriated that amount of money from me". [6]The words "Give them back", though they are indicative of the plaintiff's state of a claimant in the matter, are

---

are due by the defendant) which will have to be proved. The definition of Vpra 54 mentioned above actually has a different purpose: it is intended to point out the difference between a valid statement in Nyāya and one in legal procedure. In addition to the above definition the latter requires the reference to a valid probans (cf. requirement 2, below).

90.2 The plaintiff's) own opinion. Vāc refers to the same idea that underlies, e.g., the 'statement' to have been called pratigrahavacana (NsūBhā 1.1.33). It means, that the statement is the utterance of something of which the plaintiff himself accepts that it can be proved.

90.3 The defects of the statement. This is a very general term, but from the example given by Vāc as also from the longer lists in Ssā 86 and Vmāt 292 it appears that the authors of the nibandhas more specifically thought of the nigrahasthānas (= 'occasions for reproof', KILA, p.155) which have been dealt with in the last book of Nsū. One of these is 'the contradiction between the statement and its probans (pratijñāvirodha: Nsū 5.2.4). In NsūBhā this defect has been illustrated by the following example: "Substance is different from Quality, since nothing is percieved except colour etc." In this probans the statement itself is opposed. Indeed, if only colour etc. (i.e., the Qualities) can be percieved, the Substances must be included in the Qualities and they cannot be different from them. For similar defects, cf. pratijñāhāni (Nsū 5.2.2), pratijñāntara (Nsū 5.2.3), pratijñāsaṃnyāsa (Nsū 5.2.5), etc.

90.5 The essential part of the plaint. The author wants to stress two facts : (1) On the one hand, a valid plaint must mention the probandum together with the probans (differently from a 'statement' in logic, where the probandum only should be referred to: cf. Vpra 54); (2) On the other hand, the plaint must not also mention that the object claimed should be given back to the plaintiff. This is tacitly assumed, even without its being explicitly stated in the plaint.

90.5 A hundred (coins). It is generally accepted that, whenever the lawbooks refer to an amount of money without adding the monetary unit, one should supplement the latter as paṇas. Not only is there a text of K to that effect as far as fines are concerned (K 102), but it will also be found applied in Vyci itself. However, inasmuch as this rule has not been followed without exceptions (cf. 438.37, where purāṇas have been taken as the unit) and inasmuch as the unit is of no importance in cases like this, the translation '(coins)' has been preferred.

not an essential part of the plaint.

[7] (3) 'Definite' = with un unalterable content. [8] This discards a plaint like this: "He either owes me or he does not".

[9] (4) 'In accordance with common practice'.
(First interpretation:) whose content does not contradict the common practices of men. [10] It is in this way that the following reasoning is discarded, namely that on the authority of a text of BṚHASPATI:

91 The interest on grass, wood, bricks, ferments, thread, leather, bones, bark, weapons, flowers, and fruits, does not cease, [B 10.23]

[1] a claim for an endless interest would constitute a valid plaint, even though it is contrary to the common practices of men. [2] For it is to this purpose that BṚHASPATI says:

92 One should not decide (lawsuits) on the basis of the prescriptions of the sacred law only; if an investigation is devoid of reason, it violates the sacred law. [B 1.114]

[1] [B 1.114] 'Reason' = common practice.
[2] (Second interpretation:) BHAVADEVA, however, explains as follows. [3] (A plaint) is lokasiddha (= current among the people) when people know about it from general hearsay. [4] This prevents a person without any property from claiming that somebody has used property of his to the amount of a hundred thousand.

[5] (5) 'Concisely worded' = containing just as many words as are necessary to establish a thesis which is characterized by a probandum that is connected with a specific probans.

[6] (6) 'Explicit' = in which the contents are clearly expressed.

[7] (7) 'Free from doubts' = free from such defects as

---

91 The interest ... does not cease. This constitutes an exception to a number of rules which prescribe that interest ceases when the amount due has become twice as high as the original debt (cf. the modern rule of dāmdupat) for some objects, three times up to eight times as high as the original debt for other objects. Cf. [HH vol.III,p.422-23].

the inversion of what is prior and what is posterior, etc. Thus it becomes easily understandable.

[8] (8) '(Free from) contradictory causes' = free from probantia that are concomitant with the opposite of the probanda. [9] Example (of a contradictory cause): "This man, although separated in estate from me, has acquired property and, therefore, should now give to me what he has acquired". The plaint is valid when it does not contain such (contradictory cause). [10] This is to be understood as follows. Inasmuch as the words "separated in estate from me" qualify the subject, it constitutes a contradiction with the statement. Therefore, since (this requisite) is already contained in (the first requisite, viz.) 'free from the defects of the statement', it is a mere amplification.

[11] (9) 'Capable of meeting opposing arguments' = the plaint must be proclaimed in such a way that it is capable of meeting as many types of (valid) reply as may possibly come up.

[12] (EULOGY OF THE PLAINT.)

NĀRADA:

93 The statement (of the plaint) is considered to be the fundamental part of legal procedures; if the plaintiff falls short of it, he is lost; if he carries it through, he is successful. [NMā 1.6]

[1] 'The statement' = in such a form as "You owe me a hundred". - [2] That means: 'if he falls short of it' = if he does not complete it, 'he is lost' = he is defeated; 'if he carries it through' = if he does complete it, 'he is successful' = he is victor.

92.7 Inversion of what is prior and what is posterior. The defect meant by these words is probably less technically conceived than the tenth nigrahasthāna of Nsū: aprāptakāla (Nsū 5.2.11). The latter is restricted to the case where the order of the five members of the syllogism has been inverted, whereas in the present case it may refer to inverting the chronological or logical order of facts etc. Cf. 204c.

92.11 The different types of reply will be discussed below, cf. 134.12-150.3.

[3](CONTENT OF THE PLAINT AND ITS AMENDMENT.)

BṚHASPATI:

94 When one has produced (a plaint with) a certain content, one should not introduce any change nor should one make it a different plaint. By doing so one loses the original (plaint). [B 2.7]

[1] 'Change' = a decrease or an increase. [2] E.g., after having complained: "You owe me a hundred", afterwards another plaint to the effect: "(You owe me) only fifty", or "(You owe me) hundred and fifty". [3] 'A different plaint' means: when one first pauses after a plaint like this: "You owe me a hundred suvarṇas", and later says: "And you owe me cows", this is a different plaint.

[4] There is no objection to amend before (the plaint) is checked by the reply but after that it is objectionable, according to the text:

95 When (the plaint) has been checked by the reply, it is impossible to write down (amendments). [NQ 2.22cd]

[1] Further:

96 Then the plaintiff should set forth the plaint in his presence, free from defects, with a valid statement, and supplemented by the title-deeds or other evidence. [B 2.5]

97 He should write down the place, the time, the year, the month, the fortnight, the day, the caste, the name, the quantity and the increase of the object, the molestation, and the reason for the indulgence. [B 2.6]

[1] [B 2.5] 'Title' = the evidence for the debt, etc., i.e., witnesses, documents, etc. [2] Although documents etc., will be explained in Part III, nevertheless they also have to be mentioned here in a general way in view of the adequacy of the plaint.

[3] [B 2.6] 'Increase' = interest. - [4] 'Molestation'. In order to meet the question: "If I am his debtor, why did he not molest me while I was in his immediate proximity?", one has to state: "I did molest him". [5] Or in the absence of molestation one has to state the reason for the indulgence.

[6] KĀTYĀYANA:

98 When bringing forward a plaint one should enter the time, the year, the month, the fortnight, the _tithi_, the exact moment, the spot, the object, the location, the caste, the shape, the age, [K 124]

99 The object to be proved, the size, the substance, the quantity, one's own name, the names of the kings in due order, the residence, the name of the object to be proved, [K 125]

100 The names of one's ancestors in due order, the molestation, he who accepts and he who gives, and other reasons for the indulgence. [K 126]

[1] All these items are to be mentioned if they are necessary to avoid opposing data. [2] Otherwise, however, one should mention the statement and its _probans_ only.

[3] NĀRADA:

101 The plaintiff may write down amendments as long as the defendant does not write down a reply to the plaint, as long as the reply does not come out. [NMā 2.7]

102 The accused person's reply prevents from writing down (amendments). [NQ 2.22cd]

[1] BṚHASPATI:

103 The plaintiff may amend the plaint by subtraction or addition as long as the defendant does not submit the reply in the presence of the judges. [B 2.22]

[1] THE FALLACIES OF THE PLAINT.

[2] BṚHASPATI enumerates them as follows:

104 The king should reject a plaint which is (1) unknown, (2) defective, (3) meaningless, (4) purposeless, (5) unprovable, or (6) adverse. [B 2.8]

105 (1) A plaint is _unknown_ when it is not made by anybody; (2) it is _defective_ when it refers to another person's benefit regardless of one's own benefit. [B 2.9]

106 (3) A plaint is said to be _meaningless_ when it

refers to a trifling offence and when it refers to a small amount; (4) know a plaint to be <u>purposeless</u> when it does not contain any transaction or molestation. [B 2.10]

107 (3) Know a legal procedure to be <u>meaningless</u> when it is not capable of inclusion within such titles as usury, etc.; (4) <u>purposeless</u> when (it is not capable of inclusion) within insult, etc. [B 2.11]

108 (5) The wise call <u>unprovable</u> an impossible plaint such as "He owes me a bow made of hare's horn". [B 2.12]

109 (6) A plaint that has been submitted is called <u>adverse</u> when it is directed against the chief judge, the king, a town, or the kingdom. [B 2.13]

[1][B 2.11] 'Usury, etc.' = the (first) fourteen (titles of law). - [2] The words 'not capable of inclusion within' should also be supplied with 'insult, etc.'

[3]Further:

110 A plaint does not succeed when it is directed against a town or the kingdom, when it has been rejected by the king, and when different subjects are combined in it. [K 136]

111 On the other hand a king desirous of knowing truth may certainly accept a case containing

---

109.1-2 The ancient Smṛtis subdivide the substantive law into a number of topics or 'titles of law' as they are generally called. Their nomenclature slightly varies in the different texts, but in most of them their number has been reduced to eighteen. This is also the case in the enumeration of B which is referred to in B 2.11 and in the present comm. B, however, first draws a distinction between two groups of topics: fourteen of them are based upon transactions involving property, whereas the other four are concerned with injuries (B 1.9cd,10ab). In the light of this distinction B 2.11 should be understood as follows. (1) A cause is called 'meaningless' when it is not important enough to rank among the fourteen titles of law based upon property, which are: usury, deposit, resumption of gift, joint concerns, non-payment of wages, neglect of service, land-disputes, sale by a non-owner, resumption of purchase or sale, breach of contract, duties of husband and wife, theft, inheritance, and gambling and betting (B 2.12). (2) A cause is called 'purposeless' when it is not important enough to rank among the four titles of law based upon injury, which are: verbal assault, physical assault, violence, and adultery (B 1.14).

110 <u>Rejected by the king</u>. This expression has been understood in two ways: (1) It refers to a royal decree like this: "In my kingdom there should be no dealing in rupees" (YApa 2.6); (2) It applies to taxes etc., which are the monopoly of the king (Vpra 51).

different statements which is well composed as to the rules of legal procedure. [K 137]

[1] [K 316] 'Different subjects' refers to legal procedures in which there are different trials. [2] KĀTYĀYANA explains this concept as follows:

112 In one lawsuit the burden of proof should not be upon both parties, nor should both establish their claims, nor should there be a double burden of proof upon one person. [K 190]

[1] Even this case should not be rejected, but the king should only note down its description in due order. [2] But in a case where various probanda are to be established by means of a single probans there is no question of ordering them to be heard in succession.

[3] KĀTYĀYANA:

113 A plaint is considered unacceptable if it does not mention time or place, if there is no mention of the substance and the amount, and if it does not contain the evidence for the probandum. [K 138]

[1] K 138 is to be understood as follows: each of these, viz. place, etc., is necessary in only those cases where the decision is dependent on these very data, but not in all cases. [2] Otherwise we would be faced with the conclusion that this text serves a spiritual purpose.

[3] (THE PLAINT TO BE PUT IN WRITING.)

VYĀSA:

114 First one should write (the plaint) either on

112.1-2 This solution, which seems to have been more or less generally accepted in the nibandhas, has been illustrated by the following examples. (1) The different items of a plaint should be examined one after the other in cases like this: (a) When various titles of law (vivādapadas) are referred to. E.g., "He has loaned gold of mine; he does not return the object which I have deposited in his hands; he sold an object of which he was not the owner; he has committed acts of violence against me". (b) When the transactions occurred at different places and different times. E.g., "He contracted a debt of a hundred coins in Benares; another year he loaned a number of clothes; in another place he purchased cows or corn". (2) The different items should be examined all at once in a plaint like this: "He forcibly took away gold, silver, and corn of mine". Cf. Kane K notes p.142-43; Vma notes p.25-26.

a plank with letters drawn with white chalk or on the soil; and afterwards, after having made amendments of subtraction and addition, one should copy it out on a leaf. [Vy 1.23]

[1] 'A plank' = a tablet of wood, etc. [2] Thus, one should first write down the plaint on the soil, and after having made amendments of subtraction and addition one should write it out on a leaf.

[3] KĀTYĀYANA:

115 The righteous king should punish like a thief the person who writes down the words of the plaintiff and the defendant differently from the way in which they have been spoken. [K 132]

[1] K 132 means: he who writes down (the parties' words) differently from the way in which they have been spoken should be punished like a thief.

[2] Here ends the (first) Part, on the Plaint, in the Vyavahāracintāmaṇi.

- - - - - - - - - -

[3] PART II : THE REPLY.

[4] (WHEN IT SHOULD BE PRODUCED.)

When the plaint is free from defects and (the defendant) has taken cognizance of its content, he should produce his reply. [5] Thus BṚHASPATI says:

116 After the plaint has been well defined, after the things to be mentioned have been separated from those not to be mentioned, and after the content of the statement has been confirmed, then (the king) should order the reply to be written down. [B 3.2]

[1] 'Well defined' = established according to its nature.

[2] YĀJÑAVALKYA:

117 The party should dictate the reply to the things he has heard in the presence of the person who reported first. [Y 2.7ab]
Then he should immediately dictate the evidence for the content of his statement. [Y 2.7cd]

118 If this succeeds, he obtains success; in the other case, the opposite. [Y 2.8ab]

[1] [Y 2.7cd] ('The evidence for the content of his statement':) 'the content' = the fact that (the debt) has been cleared off, etc.; 'the evidence for this' = the witnesses, etc.

[2] [Y 2.8ab] 'If this succeeds' = if the submitted evidence 'succeeds' = attains its object. - [3] 'Success' = victory. - [4] 'In the other case' = if it does not attain its object. - [5] 'The opposite' = absence of victory; [6] the MITĀKṢARĀ, however, explains it as 'defeat'.

---

116 The things to be mentioned. This translation is based upon the assumption that Vāc followed the interpretation of Vka 64 (cf. 116.1 which is also quoted verbatim from Vka). Another interpretation would be as follows: 'what is claimed and what not' (Jolly, B tr., p. 292).

[7] [Y 2.7] 'The things he has heard' = the words of the plaint. - [8] 'The person who reported first' = the plaintiff. - [9] 'The party' = the defendant. - [10] 'Statement' = the statement of the defendant. - [11] 'Immediately' = (immediately) after writing down the reply.

[12] KĀTYĀYANA:

119 If the defendant, after having heard the content of the plaintiff's writing, for some (valid) reason requests an adjournment in the lawsuit, this should, no doubt, be granted to him. [K 145]

120 In the case of debts, etc., according to their importance, he should either reply immediately, or he may be granted one day, five days, three days, three fortnights, or seven days. [K 146]

[1] Here THE SAME AUTHOR gives the following definitive explanation:

121 When an act has been committed recently, the statement (of the reply) should follow immediately; when a year has elapsed, a day('s delay) should be granted; when six years (have passed), three days; when twelve years, seven days. [K 154]

122 When twenty years have elapsed, he may take ten days or a fortnight; when thirty years have elapsed, he may take a month; when more than that, three fortnights. [K 155]

123 The king should grant a shorter or a longer time to the defendant, after he has taken cognizance of the time, the capacity (of the litigant), and the relative importance of the case. [K 147]

[1] 'The king' is, here, any person who investigates the case.

[2] BṚHASPATI:

124 According to the strength of the case he may be granted one day, three days, five days, seven days, or a fortnight, or even a month or three

---

119 Valid reason. Such valid reasons are: the fact that the defendant has forgotten the details of the transaction, etc. (Sca 94).

fortnights. [B 3.4]

[1] The number of cases in which the reply should be given immediately has been limited by YAJÑAVALKYA as follows:

125 The matter should be treated immediately in case of (1) violence, (2) theft, (3) assault, (4) a cow, (5) a curse, (6) an urgent matter, and (7) a woman. It is said that in other cases a delay may be granted at pleasure. [Y 2.12]

[1] 'A cow' is, in this case, a milchcow. [2-3] The term 'cow' is illustrative of all such objects whose usefulness etc., decreases after a lapse of time. - [4] 'An urgent matter' = in which it is possible that (the being under consideration) would die. - [5] 'A woman' = (a) a woman of high birth in a lawsuit concerning her behaviour, or (b) a female slave in a dispute concerning the ownership.

[6-7] The seven items mentioned (in Y 2.12) are illustrative of all cases in which something is opposed to a delay. [8] Thus KĀTYĀYANA says:

126 No delay should be granted, if the value (of the object) would decrease, or if the object would be destroyed or abandoned, since this is an urgent matter. [K 149]

[1] [Y 2.12] 'In other cases' = in the case of debts, etc. [2] Thus NĀRADA says:

127 Because of the impenetrability of lawsuits and also because of the inadequacy of men's memory, in the case of debts, etc., he should grant [haret] a delay, because it must be his desire to know the truth at any rate. [NMā 1.44]

[1] The word 'pleasure' in Y 2.12 also aims at the same desire to know the truth. - [2] (Notice the form) haret instead of (the causative) hārayet = 'he should grant'. [3] (This verbal form) should be supplemented (by its grammatical subject): the person who investigates the case.

[4] VYĀSA:

128 When a default caused by the king or by fate comes up during that time, he is not defeated by merely transgressing the time-limit. [Vy ?]

129 He should prove the default caused by the king or by fate by means of witnesses; but if he acts dishonestly, he should be punished and forced to pay that matter. [Vy ?]

[1]That means: when it has been proved, that the reason for his exceeding the time-limit is due to the king or to fate, he who exceeds it does not commit an offence. [2]But if he exceeds it dishonestly, he should be punished and he should lose the case.

[3] (COUNTERCLAIM.)

KĀTYĀYANA:

130 The defendant should never raise an accusation against the plaintiff, except in cases of (verbal and) physical assault, theft, adultery, and an urgent matter. [K 163]

[1]In all five kinds of criminal cases one may actually introduce the accusation: "He has also committed physical assault, etc., against me", [2] since in that very way the (original) accusation is countered.

[3]YĀJÑAVALKYA:

131-132 (1) As long as (the defendant) has not refuted the plaint, he should not raise a counterclaim against it; (2) one should not (raise a plaint) against a person who has been accused by somebody else; (3) one should not alter what one has said; (4) one may raise a counterclaim in case of a quarrel and in acts of violence. [Y 2.9,10ab]

[1-2] Two of these (four) prescriptions are meant for the plaintiffs, viz. (2) one should not accuse a person who has been accused by somebody else, and (3) 'alter' = after one has written (the accusation) in a certain way at the time of reporting the case), one should not write differently at the time of the plaint.

132.2 The author warns the reader that two of these four prescriptions do not actually serve the subject-matter under consideration. They are meant for the plaintiff but not for the defendant. The text has been quoted in view of nos. (1) and (4), (1) being the general rule, and (4) an exception to it.

[3] (REQUIREMENTS OF A VALID REPLY.)

NĀRADA:

133 The experts say, that a valid reply must (1) fully cover the thesis, (2) be appropriate, (3) free from doubts, (4) not confused, and (5) understandable without interpretation. [NQ 3.2]

[1] (1) 'Fully cover the thesis' = cover the probans mentioned in the plaint. [2] Thus it has been said:

134 He should produce a reply that corresponds to the contents of the plaint. [NMā 2.2cd = K 159cd]

[1] (2) 'Appropriate' = serving the purpose.
[2] (3) 'Free from doubts' = well devised while being uttered.
[3] (4) 'Not confused' = in which there is no contradiction between the prior and posterior parts.
[4] (5) 'Understandable without interpretation' = understandable even without (such rules of interpretation as) supplementing elliptical passages, etc.

[5] (Note on requirement 1 : 'the reply must fully cover [vyāpaka] the thesis [pakṣa]'.) This is to be understood in such a way that a confession and a reply of ignorance, etc., although they do not cover the probans mentioned in the plaint, (are valid replies) because they are actually suitable for that purpose. [6] That is the reason why THE OLD SCHOOL say: A reply is called uttara, because through it the complaint under consideration is countered [uttīryate].
[7] THE NEW SCHOOL, however, say: [8] Vyāpaka = which proves, pakṣa = the fact that the object is not due etc., mentioned in (the defendant's) own statement. [9] OTHERS say: Vyāpaka = which extends as far as, pakṣa = the hundred (coins) that have been made the subject-matter of the probandum, i.e., the fact that they are due. [10] Accordingly, this also includes a reply which is composed of a denial and an exception, e.g., "Half of it has not been appropriated

---

134.6 That is the reason why. I.e., 'in order that the definition should be wide enough to cover all possible types of reply'. This wide etymological explanation of the term uttara (= reply) as a statement that counters (uttīryate) the plaint, occurs in Vmāt 299 on the word anistīrya in Y 2.9 (Vyci 131). A similar idea has also been expressed in YApa 2.7 and YMtā 2.7, where it has been said that the reply serves the purpose of 'rejecting, opposing' (nirākaraṇa) the plaint.

and the other half has been cleared off", for this (reply) extends as far as the subject-matter.

[11] The statement whose content meets the requirements mentioned in this text is a valid reply.

[12] (THE DIFFERENT KINDS OF REPLY.)

KĀTYĀYANA subdivides the latter according to four possible types of content:

135 There are four kinds of reply: (1) the confession, (2) the reply by way of denial, (3) the exception, and (4) the rule of 'former judgment'. [K 165]

[1]VYĀSA:

136 Confession is the statement that the probandum is true; an exception is the introduction of a special plea; denial is the contradiction of the probandum. [Vy 1.24]

[1]This is to be understood as follows: a reply by way of denial is 'the contradiction', either in words or on facts, 'of the probandum' = of the probandum together with the probans mentioned in the plaint. [2]Contradiction of the mere probandum, however, is common to all types of reply except confession.

[3]BṚHASPATI:

137 Know that (a legal procedure) has four parts in case of a denial, in case of an exception, and in case of a former judgment, two parts in case of a confession. [B 2.3]

136.1-2 To illustrate this distinction we have to anticipate the description of the four types of reply which will be dealt with below. Take the plaint: "You owe me a hundred coins (probandum), since you borrowed them from me (probans)". Except for a confession, in which both the probans and the probandum are accepted to be true, the other possible types of reply are as follows: (1) In a reply by way of denial it is said: "I do not owe you a hundred coins, since I did not borrow them from you". Here the probandum and the probans are denied. (2) (a) A reply by way of exception says: "I do not owe you a hundred coins, since I have paid them back to you"; (b) a reply by way of former judgment says: "I do not owe you a hundred coins, since the matter has been decided in the court before". In both cases (a) and (b) the probandum only is denied, whereas nothing is said about the probans, whether it be accepted or not. Cf. 139.1-2.

1 (1) CONFESSION.

138 When the party accepts the plaint without producing an exception, this reply should be known as a confession; in case of an exception, a separate refutation. [B 3.14]

[1] 'An exception' (lit., a cause) = a cause that refutes the probans used by the adversary. - [2] 'The party' = the defendant. - [3] 'In case of an exception' = in case of a reply by way of exception. - 'A separate refutation' = (a separate refutation) is required.

[4] The confession is a valid reply which causes (the plaint to be) a proof of something accepted to be true. [5] This does not, however, mean that the plaintiff should be reproved, [6] since (1) it is the aim of the investigation to reach a true decision, [7] and (2) in this case the proof of something accepted to be true is not a defect.

[8] In this case the part of the trial and the part called pratyākalita which consists in the assignment of victory and defeat are missing; therefore this type of legal procedure has two parts only. [9] Thus it has been rightly said in B 2.3: [10] 'two parts in case of a confession'.

138.4-7 The background of this paragraph is the theory of the logicians acc.to which the proof of something already accepted to be true (siddhasādhana) constitutes a defect of reasoning. Vāc refuses to apply this theory to the case of a confession for practical reasons: the main purpose of a logical investigation is to ascertain the truth, and this purpose is reached by a confession as well. Because of this logical background one might feel inclined to interpret the word nigraha also in its logical sense. In favour of this assumption it should be said, that siddhasādhana, although originally included among the fallacies of the probans (hetvābhāsa), in the Modern School has become considered as a nigrahasthāna (cf.KILA,p. 147). On the other hand, it is not impossible that nigraha has been intended as a synonym for daṇḍa = punishment, as seems to be suggested by the discussion of Vpra 56. MITRA MIŚRA rejects the point of view that the defendant's confession would cause nigraha for the plaintiff by a reasoning a fortiori: even when the plaintiff is put in the wrong he is not punished (daṇḍa), because he has not committed an offence; a fortiori, he should not undergo nigraha in the case of a confession (where he is put in the right!).

[11] (2) REPLY BY WAY OF DENIAL.

[12] About this KĀTYĀYANA says:

139 If the defendant contradicts the plaint, according to the principles of legal procedure this should be known as a reply by way of denial. [K 167]

[1] 'The plaint' = the probans of the plaint, e.g., the fact that (the object under consideration) has been appropriated, etc. [2] Therefore the real meaning is as follows: there is a reply by way of denial only if (besides the probandum) the probans is contradicted.

[3] VYĀSA:

140 There are four kinds of denial: (1) "this is not true", (2) "I do not know", (3) "I was not present", and (4) "I was not born at that time". [Vy 1.28]

[1] Among these, "This is not true" is a contradiction in words, the other three, "I do not know", etc., are contradictions on facts. [2] Thus KĀTYĀYANA also says:

141 When the other party, after having heard the content of the plaint, refutes it either on facts or even in words, this kind of reply should be known to be a denial. [K 166]

[1] 'The content of the plaint' = the probandum together with the probans. [2] Here one should make the following distinction: (1) the prescription of contradicting the probandum would serve as an indirect indication of the reply by way of denial, since it also characterizes other kinds of reply; [3] (2) a contradiction of the probans only, however, would constitute the defect in the statement (of the plaint) called svarūpāsiddhi.

141.2 The fact that all kinds of reply, except confession, deny the probandum, whereas the reply by way of denial is the only type in which at the same time the probans is denied, has been explained above. Cf. note 136.1-2.

141.3 Svarūpāsiddhi is a subdivision of asiddhi, one of the fallacies of the probans (hetvābhāsa). One of the examples given to illustrate this fallacy is as follows: "A pot is a substance, because it is a cloth", in which the probans cannot be present in the subject (pot). Cf. KILA p.147, and especially Tsa notes p.307.

[4]When the plaint is as follows: "You owe me this thing, since you have appropriated it", (the reply:) "I have not appropriated it" is one in words. [5]When this is accompanied by a time-qualification such as: "Then I was not born", it is on facts. [6]When it is accompanied by a place-qualification and a time-qualification such as: "Then I was not there", it is on facts. [7] A reply such as: "I do not know", whether accompanied by a qualification of time, etc., or not, is always on facts, [8] since a proper absence of remembrance actually proves that the object has not been appropriated.

[9] (The four types of denial should be grouped as follows:) (1) The latter three, in which the fact that the object has not been appropriated is proved by means of an argument that makes the appropriation impossible, are (collectively) called: reply by way of denial with a pretext. [10] (2) The first one is a pure reply by way of denial.[11] ((1) should be further subdivided as follows:) (1a) "I do not know" is a reply by way of denial with a pretext based on pure self-reference. [12] (1b) The remaining two are regular (replies by way of denial with a pretext), for (the truth of the pretext) is invariably concomitant (with the truth of the denial).

[13] Objection. As far as concerns the two cases which regularly refute the alleged appropriation, viz. that (the defendant) was not present or not born, it is sufficient to prove the latter.
[14] Refutation. (1) Since such a proof takes a negative form, it is more difficult to be established

----

141.11 Self-reference. The meaning of the term abhimāna in this passage is very closely related to its technical sense in the Sāṃkhya-philosophy, where it is used for the process of introducing the idea of the "Self" into purely material objects and activities. Cf. Garbe,R. SâṃkhyaPhilosophie. Leipzig 1894. P.249.

141.12 The two types of reply: "These objects have not been appropriated by me, since I was not present at the place of the transaction", and "These objects have not been appropriated by me, since I was not born at the time of the transaction", indeed, differ from the other types of a reply by way of denial, inasmuch as the defendant's non-presence at the place of the transaction or his non-existence at that time invariably lead to the conclusion that he cannot possibly have taken part in it. For the NAIYĀYIKAS this is a regular case of vyāpti (pervasion), in which the probans (the vyāpya) is pervaded (vyāpta) by the probandum (the vyāpaka). Cf. IMSNL, p.28.

than that of the appropriation. [15] (2) Since the non-appropriation is not recognized as a probandum (which is invariably concomitant) with both (the fact of not being present or not being born), it would be unnecessarily cumbersome even to demonstrate these. [16] (3) Even if one does not succeed in demonstrating them, the doubt continues. [17] For there is no such rule as: "Being born then, being present there, he did appropriate". [18] (It would be wrong to apply such a false rule, since) in a legal procedure according to the sacred law sophistry must by all means be avoided.
[19] Therefore, in all four types of reply by way of denial it is the plaintiff only who is to produce valid means of proof for the appropriation by means of human evidence.

[20] When the plaint states that something has been appropriated by (the defendant's) father, etc., and his son, who was born after the time in which the transaction is considered to have taken place, replies: "I do not know", etc., this answer corresponds to a reply (by way of denial), [21] since the probans stated (in the plaint) cannot possibly also be denied on facts.
[22] Objection. Since in this case there is actually no reply, the depositor (of the plaint) wins the suit.
[23] Refutation. Inasmuch as in a legal procedure according to the sacred law sophistry must by all means be avoided, in this case the depositor (of the plaint) should necessarily produce valid means of proof for the appropriation.
[24] That is the reason why the Smṛtis require, that in

141.19 Human evidence. For the definition of 'human' evidence, cf. note 170.

141.20-23 When a debtor has died and his son was born after the time when the debt was contracted, the latter may (truly or falsely) reply that the transaction and the fact of a certain amount being due are unknown to him. This case should not be considered as a 'failure to produce a reply', and the debtor's son should not be declared defeated on that ground (acc. to 162.1), since it is not possible to decide whether he was actually 'capable of producing a reply' (162.1) or not. If he is really unaware of the transaction, a sentence should not be passed against him upon the basis of the plaint only, as long as the latter has not been proved to be true by means of valid evidence.

141.24-27 The case referred to in this paragraph is as follows. A has openly bought an object from B who is not the real owner but a mere impostor who sold the object without being its owner, who is C. If C summons A, A has a right to produce

an open purchase (from a non-owner) the original owner should also produce valid means of proof for the fact that he did not give (the object to the impostor), etc. [25] Otherwise (1) the proof of the fact that he did not give it would be redundant as long as the impostor does not mention the fact that it has been given to him, etc., and [26] (2) it would be such that, if he did refer to the fact that it has been given to him, etc., he should himself prove so. [27] The reason (for the necessity for the original owner to prove that he did not give the object to the impostor) is that the fact of its having been given would constitute a decisive counter-argument against the right of ownership, etc., which the original owner relies upon.

[28] (3) REPLY BY WAY OF EXCEPTION.

[29] An 'exception' (lit., a cause) is a cause that deletes the probandum of the depositor (of the plaint), i.e., the fact that a certain object is due; it assumes such forms as repayment, etc.
[30] Consequences: (1) It is different from a reply by way of denial. [31] The latter states that the object has not been appropriated, and aims at the negation of the fact that the object is due. It does not, however, delete this fact, since the object has never been due at all. [32] (2) It is different from the plea of former judgment, [33] for (the reply by way

---

B. (It is important that the purchase should have happened openly, for otherwise A should be punished. Cf. [HH vol. III, p. 462]). There is a text (K 416) saying that C first has to establish his ownership by means of the testimony of his kinsmen, but even then he can get the object back only after he has proved that it had not been donated, relinquished, or sold by him to B. It is this text or one similar to it which Vāc explains by means of the rule that in all types of reply by way of denial the burden of proof is upon the plaintiff.

141.29 Deletes the probandum. This terminology should again be seen in the light of the Nyāya-philosophy. The latter distinguishes between several kinds of abhāva (absence). One of these is dhvaṃsābhāva, which means that an object is non-existent after it has been deleted (cf. RILES, p. 330, note; IMSNL, p. 54-55). Take the plaint: "You owe me a hundred coins, since you have borrowed them from me", and the corresponding reply: "I do not owe them, since I have paid them back". In this case the probandum of the plaint, viz. the fact that money has been due, is accepted by the defendant, but at the same time he produces an exception acc. to which this probandum is not true any longer, after the money had been paid back.

of) former judgment points out that the question whether the object is due cannot come up for consideration.

[34] There are three kinds (of reply by way of exception): [35] the exception is either stronger, equally strong, or less strong than the probans mentioned by the plaintiff.

[36] ((3a) Reply by way of a stronger exception.) The first of these (, in which the exception is stronger than the probans,) is called pratyavaskandana. [37] Thus BṚHASPATI says:

142 When the defendant replies to the content set forth by the plaintiff by adducing an exception [kāraṇa], this is pratyavaskandana. [B 3.19]

[1] That means: when (the defendant) agrees that the probans set forth by the plaintiff is true, viz. that something has been appropriated, but he adduces a reason why it is no longer due now, e.g., that it has been given back, etc., then this reply is a pratyavaskandana.

[2] Example. The words: "It is true, that I have appropriated a hundred (coins) from you, but I have given them back".

[3] When the plaintiff complains in the following terms: "Now you owe me a hundred (coins), since you have borrowed them from me subject to the proviso that they should be given back", he has in mind a qualification of the probans in order that his statement should be able to meet the case in which the defendant pleads repayment. This qualification is as follows: "They have not been given back", and it is the purpose of the reply to point out that this is

---

142.3-4 When it is said that a reply by way of exception deletes the probandum of the plaint, what is actually meant is this. When a person complains: "You owe me a hundred coins, since you have borrowed them from me", he has in mind to say: "You owe me a hundred coins, since you have borrowed them from me without fulfilling the proviso to give them back". In other words: the probans which is stated unqualifiedly: "they have been borrowed", is intended to be qualified as follows: "and it was a loan which had been made subject to the proviso that the money should be given back, which proviso has not been fulfilled". The reply by way of a stronger exception consists in maintaining this qualification of the probans to be untrue, by saying: "The money has been given back".

unproved. [4]Thus, the reply by way of exception applies when a qualification of the probans is said to be unproved.

[5]Also KĀTYĀYANA:

143 When the defendant replies to the content set forth by the plaintiff by adducing an exception, Bhṛgu calls this weakness. [K 170]

[1](Notice the unusual term) ādharya = weakness. [2]This should be supplemented as follows: (weakness) of the plaint(, [3] as is clear from the following text of) NĀRADA:

144 When in a lawsuit the content of the plaint is such that it is weaker (than the reply), the witnesses of the defendant should be questioned. [N 1.164]

[1]The author of the PRADĪPA, however, derives the construction (of the sentence in B 3.19) from the meaning in the following order. [2] Kāraṇa = the reason why the object is due, i.e., the fact that it has been appropriated; when (the defendant), after having agreed to that [prapadya], speaks [brūyāt], scil. that it has been given back, etc.
[3]He also says, that the qualification of the probans of the statement, viz. the fact that it has not been given back, should be explicitly mentioned.

[4]SOME, however, say: [5] A reply by way of exception consists in making a speech that contradicts the probans of the statement (of the plaint) after one has recognized the latter; therefore, the text refers to all three (types of) reply by way of exception.
[6]This is wrong: inasmuch as in case of an equally strong or a less strong exception the statement (of the plaint) cannot possibly be weaker, this text cannot refer to both of these.

[7]Actually, however, the preceding explanation is not right. Indeed, if to a plaint like this: "This ob-

---

144.7 In this passage an objection is raised against the above definition of the reply by way of exception acc. to which the latter consists in mentioning a cause which deletes the probandum of the plaint (cf. note 141.29). This definition is said not to be wide enough to be applied to all cases of kāraṇottara. In the example given in the text, the kāraṇa of the reply, viz. "it was acquired after

ject of yours is the common property of us both, since it was acquired by you when you were joint in estate with me", one replies by means of a reply by way of a stronger exception like this: "This is not true, since it has been acquired by me after partition from you", the fact that (the defendant) was still joint, which is explicitly mentioned, is refuted, but the accusation is not deleted. It is better to explain as follows. When (the defendant) agrees to [prapadya] the probans mentioned in the plaint but only as far as its qualified portion goes, and when he produces an exception with the intention to prove that he should not be accused, e.g. the fact, namely, that he had been partitioned, that the object has been paid back, etc., then the latter is a reply by way of a stronger exception.

[8] ((3b) Reply by way of an equally strong exception.) If to a plaint like this: "This land is mine, since it has come to me by inheritance from my ancestors", (the defendant produces) an identical reply, this is (a reply by way of an) equally strong (exception). [9] This is a case in which opposing arguments are counterbalanced.

---

partition", does not delete the probandum of the plaint, viz. "it is the common property of us both". In other words: the fact mentioned in the probandum of the plaint did not exist for a certain length of time before being deleted by the fact referred to in the probans of the reply.

144.7 Its qualified portion. The 'qualified' portion is that part of the probans which is qualified by the 'qualification' referred to above (142.3). In the probans of the present example: "(a) It has been acquired by you (b) when you were joint in estate with me", (a) is the qualified portion, (b) the qualifying portion or the qualification. Acc. to the newly proposed definition the defendant agrees to the probans of the plaint but as far as "his having acquired" the object only.

144.9 Opposing arguments are counterbalanced. In the Syncretist School of Indian Logic especially, satpratipakṣa has been ranked among the hetvābhāsas (= fallacies of the probans). Tsa (par.55) gives the following definition: A probans is counterbalanced when there is another probans which proves the opposite of the probandum established by the first probans. E.g., "Speech is eternal, since it can be heard like any sound", as against: "Speech is non-eternal, since it is created like a jar". In the present case the probans of the plaint (= "it has been inherited from my ancestors") is counterbalanced by an identical probans in the reply, which latter proves the opposite of the probandum of the plaint. It is essential that both inferences should be mutually exclusive without there being any indication for one to be more weighty than the other.

[10] ((3c) Reply by way of a less strong exception.)
If to a plaint like this: "This land has been mine for twenty years by way of a pledge, since for such a time it has been pledged to me by the owner", (the defendant replies as follows:) "It has been mine for five years, since five years ago he pledged it to me", this is (a reply by way of a) less strong (exception). [11] This too, is a case in which opposing arguments are counterbalanced. And it is less strong on the authority of the following text:

145 In case of a pledge, in case of acceptance of gifts, and in case of purchase, the first act is the most valid one. [Y 2.23cd]

[1-2] (Burden of proof.)
In case of the stronger one among these one should investigate the evidence of the defendant, in case of the other two that of the depositor of the plaint. [3]Thus it has been said:

146 When he produces a strong exception, the burden of proof is upon the defendant; in the case of a less strong (cause), upon the plaintiff; when both are equal, the burden of proof is upon the plaintiff. [?]

[1] 'Upon the plaintiff': the same thing happens when the witnesses of the plaintiff and the defendant are equal (cf. 184^{2}-186^{1}).

[2]KĀTYĀYANA:

147 Through an exception even a plaint can become a reply; therefore the trial is said always to establish the plaint. [K 211]

[1] 'Through an exception' = because of the greater strength (of the exception as compared with the probans of the plaint). - [2]'A reply' = (can become) last (in chronological order, i.e., after the actual reply).

[3] (4) REPLY BY WAY OF FORMER JUDGMENT.

The reply by way of 'former judgment' assumes the following form: "I have defeated him in this case before". [4]As BṚHASPATI says:

148 If a man writes again although he has been de-

feated by a legal procedure, he must be told that he has been defeated before; this, then, is called a former judgment. [B 3.21]

[1](Notice the unusual terms) ācāra = legal procedure, [2]and avasanna = defeated. - [3]'Writes' = (writes down) a plaint.

[4]In this case the burden of proof is always upon the defendant, [5]because it is his duty to prove his former victory. [6]In the same way HĀRĪTA says:

149 In the case of a former judgment and the statement of an exception the burden of proof is upon the defendant; in the case of a statement of denial, however, upon the plaintiff; in the case of a confession there is none. [H 1.29]

[1]'The statement of an exception' = the statement of a stronger exception.

[2](What is the basis of the invalidity of the plaint?) The fact that in the case of a former judgment (the plaint) is contradicted by a former more valid means of proof constitutes a defect in the probans of the (new) statement. [3]OTHERS say: (The plaint) cannot be proved, since the case has been decided and, therefore, no doubt is left.

[4]THE FALLACIES OF THE REPLY.

[5]About this KĀTYĀYANA says:

150 When the reply is a confession with regard to one part of the plaint, an exception with regard to another part, and a denial with regard

---

149.2 Contradicted. Bādha = contradiction, is another one of the five hetvābhāsas (fallacies of the probans) recognized by the Syncretist School of Indian Logic. In Tsa (par.57) it has been said that a probans is 'contradicted' when it is to prove a probandum the negation of which can be established by another more weighty means of proof. The following syllogism is given as an example: "Fire is cold because it is a substance". The probans (= substance) is 'contradicted' because the opposite of its probandum (= coldness), i.e. hotness, can be proved by means of perception of touch. In the same way, in the inference: "You owe me a hundred coins, since you borrowed them", the probans (= the borrowing of a hundred coins) is 'contradicted', since the opposite of its probandum, i.e., the fact that they are not due, can be proved by a more weighty means of proof (= the certificate of the decree, proving the former judgment).

to another part, it is invalid on account of the mixture. [K 189]

[1] SOME PEOPLE explain this verse as follows. [2] E.g., when the plaint states that a hundred (coins) have been appropriated, a reply like this: "Fifty I owe indeed, twenty five have been given back, twenty five have not been appropriated". [3] At the basis of this is a text of KATYAYANA. Indeed:

151 In one lawsuit the burden of proof should not be upon both parties, nor should both establish their claims, nor should there be a double burden of proof upon one person. [K 190]

[1] This text means: in one (lawsuit) (1) the burden of proof should not be upon both parties, (2) there should not be a double burden of proof, (3) both (parties) should not be victorious. [2] All these (defects) would occur if one would accept a mixed reply as shown above.

[3] This explanation is wrong. [4] For it is not true, that such a content would be impossible, [5] since (the content of a reply) can manifest itself in numerous ways. [6] Nor is it just, that such a reply should not be given, [7] because it is not possible to forbid (the defendant) to deliver a reply in accordance with reality. [8] Nor should one say, that (in such cases the defendant) should produce a reply of denial only to the plaint as a whole, since it is not true that a hundred had been appropriated. [9] Indeed, not only intelligent people are engaged in lawsuits but unintelligent people too, [10] and they should not be blamed on account of this but they should be examined according to truth, on the authority of the following text:

152 The king should conduct legal procedures in accordance with truth, and reject sophistry. [Y 2.19ab]

[1-2] Besides, (such a reply) should not be refused on the ground that another valid reply is possible in this case, [3] because one way (to reach a goal) does not foul another way. [4] Nor should it be refused on the authority of a mere text (of the sacred law), [5] since this would involve this text to serve a spiritual purpose.

[6] Moreover, the statement "I did not appropriate a hundred (coins)" would not mean that one has not appropriated anything at all, [7] since this would in-

volve the word "hundred" to be pointless.
[8]Nor would it mean that "a (whole) hundred" have not been appropriated, [9] since this might amount to an application of the maxim: "A qualified denial is a confession of the rest".
[10] Nor can the word "hundred" be a mere supplementary reference that allows for other alternatives. [11] In this way the reply would have the following undesirable result: as soon as a certain part would be accepted to have been appropriated, the depositor of the plaint would obtain the corresponding amount whatever it may be.
[12] Conclusion. A reply is invalid if it is mixed 'with regard to one part' = with regard to one and the same part. The other two expressions 'one part' are mere supplementary references. [13]Example (of an invalid reply): "A hundred either has not been appropriated or it has; either it has been cleared off or I still owe it".
[14] But the reply is valid when it touches upon exception, etc., in connection with different parts (of the claim), [15] since on account of the different subdivisions there is no actual mixture.
[16] It is to this case that also HĀRĪTA refers when he says:

153 If in the same case there are both a reply by way of denial and an exception, and also a confession with it, what kind of reply should be preferred in this case? [H 1.23]

154 That reply that refers to the richest content or in which the trial yields a result should be known to be unmixed; it is mixed in the other case. [H 1.24abcd]

[1][H 1.24abcd] The investigation should be started

152.10 A mere supplementary reference that allows for other alternatives. This paragraph is intended to reject the following theory. In the case referred to in 150.1 the defendant should reply: "I did not appropriate a hundred coins", and in this reply the figure "hundred" should be interpreted as a pakṣaprāptānuvāda. That means: "hundred" should be only a supplementary reference, i.e., a statement that should not be taken literally, which is established as one alternative (among many). In other words: the figure "hundred" is added purely arbitrarily and it stands for any figure whatsoever. Vāc rejects this point of view, because it would lead to the following illogical result. As soon as the judges accept a certain part to have been actually appropriated, be it even upon false evidence, the defendant cannot oppose their opinion since his reply by way of denial can be taken to have covered the remaining part of the plaint only.

with that part which has the most abundant content. [2]If the contents are equally important, however, one should choose the evidence of that part through which 'the result' = the decision, of 'the trial' = possession, etc., can be readily obtained. [3]Thus it has been said: [4]'or in which the trial yields a result'. [5]This type of reply is free from an actual mixture, [6]but the one which is different from this is mixed and should be refused.

[7]Therefore, the meaning of the whole is as follows. [8]Take a claim for a hundred to which one replies like this: "Fifty have been cleared off, twenty five are due, twenty five have not been appropriated at all". First one should investigate the part of the exception. [9]After that the twenty five that are denied either should be proved with the evidence of the plaintiff, or they should be opposed with the evidence of the defendant.

[10]In this way (i.e., by also investigating the minor part which has been denied) there is no inconsistency with this text (of K 190) at all. [11]Arguments: (1) Inasmuch as equitable texts are generally based on an equitable motive, this text too, cannot be opposed to taking into consideration the evidence for the less important facts. [12](2) When decisive

---

154.11 <u>An equitable motive</u>. Vāc draws a very important distinction between the <u>text</u> of the prescriptions of the sacred law on one side and the logical or equitable principle or motive behind them on the other. When a plaint is entered as follows: "You owe me a hundred coins, since you borrowed them from me", and the defendant replies saying: "Fifty have been paid back (i.e., a reply by way of a stronger exception), twenty five are due (i.e., a confession), and the other twenty five have not been borrowed (i.e., a denial)", in this case the burden of proof should be carried partly by the plaintiff (viz., the part of the denial) and partly by the defendant (viz., the part of the exception). Strictly speaking, such a case should be refused on the basis of the <u>text</u> of K 190 (Vyci 151). Vāc does not accept this solution. It is not impossible that the statement of the reply exactly corresponds to the actual situation; in that case there is no reason to forbid the defendant to speak the truth and to produce the reply as he did. Consequently, it would not be right to refuse this kind of reply on the basis of K 190. As a matter of fact, K 190 cannot have been intended to illogically refuse such cases. Like all other prescriptions K 190 is based upon a <u>nyāya</u>, i.e., a logical motive, and it is in the light of this motive that the text should be interpreted. K 190 only forbids the burden of proof to be upon both parties in such cases where this is not logically possible. And this would happen if the defendant replied: "Fifty have been paid back, or I did not borrow them, etc." In other words: there should be no mixture of different kinds of reply with regard to one and the same part of the plaint.

evidence is available, the doubt which has started the discussion should necessarily be removed with regard to that part too.

[13]Nor should the evidence for the less important facts not be accepted on the mere authority of such texts as H 1.24abcd. [14]If that were the case, this would amount to accepting that these smṛti-texts have to be based on the Veda. [15] And this is not at all desirable, for the following reasons. [16](1) In that case one would postulate that there are no other possible bases (for a smṛti-text). [17](2) In the final conclusion about the smṛti-texts on the cloth covering the sacrificial post, etc., it has been established that there are (such other bases). [18](3) The texts under consideration cannot but be based on an equitable motive.

The text:

155 In case of a mixture of denial and exception on should prefer the reply by way of exception, [H 1.24ef]

[1]too, is to be interpreted in the same way.

[2]Therefore, the primary meaning is as follows. The investigation should be carried out on all topics in which the doubt that has given rise to the dispute prevails, and on which decisive evidence can be gathered.
[3]This is the view of BHAVADEVA, the PRADĪPA, etc., also.

[4]KĀTYĀYANA:

156 A reply is not valid when it is not connected

154.17 Vāc refers to the very intricate discussions on the authoritativeness or non-authoritativeness of certain rules which are not based upon explicit Vedic injunctions, as they occur in the works of the commentators on JAIMINI's Mīmāṃsāsūtras (1.3.4). One of the examples given there is the yūpahasti-rule which prescribes that the cloth which covers the sacrificial post during the Vājapeya-sacrifice should be given to the priest. Acc. to ŚABARA (ed. ĀnSS 97,p.186-87) these rules, for which no Vedic basis can be found, are based upon such motives as the priestly greed, etc. In his opinion such texts are not authoritative. KUMĀRILA (Tantravārttika, ed. BenSS 3,p.104-05), on the other hand, accepts the authoritativeness of these rules, because they are not actually inconsistent with any Vedic injunction (in another place he seems to defend the thesis, that all such texts are based upon Vedic injunctions), and because they belong to the recognized practice of the priests. Cf. Jha,G. The Prābhākara School of Pūrva Mīmāmsā. Allahabad 1911. P.138-40. Also: [HH vol.III,p.836].

with the subject, when it is too concise, when it is too broad, and when it pervades only part of the thesis. [K 188]

157 The wise do not approve of a reply which pervades irrelevant points, which is not clear, which is confused, which requires interpretation, and which lacks precision. [K 174]

[1] [K 188] 'With the subject' = with the plaint under consideration. - [2] 'Too concise' = a mere statement such as: "I do not owe". - [3] 'Too broad' = containing several probantia. - [4] 'Pervades only part of the thesis' = covers a part of the plaint only.
[5] [K 174] 'Pervades irrelevant points' = covers points which have no connection (with the plaint). - [6] 'Not clear' = with un unknown content. - [7] 'Confused' = whose contents are mutually inconsistent. - [8] 'Requires interpretation' = indicates the intended meaning by means of an indirect application (of the words), etc. - [9] 'Lacks precision' = a generic reply.

[10] Further:

158 When (the defendant) in his reply first employs a certain exception and afterwards another one which is more important, the latter is to be proved, not the former. [K 191]

[1] That means: when (the defendant) first mentions a less important exception and afterwards he mentions a stronger one, then it is the stronger one only that should be taken into consideration for the elucidation of the truth.

157.8 Indirect application (of the words). Lakṣaṇā is a concept known to the authors on Mīmāṃsā and on Poetics. It refers to the use of a word not with its original but with a transferred meaning. E.g., "A station of herdsmen in the Ganges" [gaṅgāyām] cannot be taken literally, but it should be understood to mean: "A station of herdsmen on the banks of the Ganges". Cf. Kāvyaprakāśa, ed. BS 60, p.25-26.

158 The verse K 191 has been quoted twice in Vyci (158.182), and not only has it been quoted in different chapters, but a completely different interpretation has been given in each case. Following Vka 71, Vsau 25, etc., in the chapter on the fallacies of the reply (158) it refers to the case where the same defendant first produces a weak exception, but then abandons it and takes to a stronger one. A second time it will be quoted in the chapter on the burden of proof in the case of a reply by way of a stronger exception, which burden is to be upon the defendant (cf. Vmāt 307, YVmi 2.7).

[2](FAILURE TO PRODUCE A REPLY.)

BṚHASPATI:

159 When the defendant does not produce a reply according to the contents of the plaint, he must be forced to produce it by such means as gentle words, etc. [B 3.7]

160 'Gentle words' consist in friendly speech; 'disturbance' in pointing out dangers; 'force' in depriving one of his property, torturing, or binding. [B 3.8]

161 But if he does not produce a reply after the lapse of one week after application of these means, he is defeated and deserves to be punished. [B 2.4]

162 Know the following persons to be incapable of producing a valid reply: the insane, the intoxicated, those abandoned by their relatives or friends, those guilty of a major sin, the senseless, those subject to excessive anger, and children. [B 1.173]

[1] B 3.7 etc. mean: when (the defendant) is capable of producing a reply and he nevertheless does not do so even after the lapse of one week after he has been questioned with gentle speech, etc., he should be considered defeated. [2] Insane people and the like, however, should be forced to produce a reply through another person who knows their situation.

[3] (PLAINT AND REPLY BECOME UNALTERABLE.)

Further:

163 Whoever says something improper when the standpoints of both have been written down and the elucidation of truth has started, loses his claim. [K 206cdef]

164 When the plaint and the reply have been produced and the investigation has started, then the statements of both parties are unalterable. Thus Bhṛgu says. [K ?]

(Exception:)

165 When something has not been mentioned by the plaintiff or omitted in the reply out of folly or dishonesty, it must be admitted for both parties. [K 193]

166 After (the plaint and the reply) have been heard and written down, and after the amendments have been deliberated on, at that stage the case is subjected to the rules about (the investigation of) lawsuits on the first day. [K ?]

[1]When the plaint and the reply have been produced and when the investigation has started, the statements of both parties are to be considered 'unalterable' = finally amended. [2] This point has been further developed [3]in K 193. [4]'Dishonesty' = a temporary paralysis of speech.
[5]Since, thus, the amendation of the plaint and the reply is considered valid up to the commencement of the investigation, in the following text too, the word 'reply' is to be understood as referring to the beginning of the investigation:

167 The plaintiff may amend his statement until the appearance <u>of the reply</u>. [NQ 2.22ab]

[1-2] Here ends the (second) Part, on the Reply, in the Vyavahāracintāmaṇi.

- - - - - - - - - - -

(167) [3] PART III : T H E T R I A L.

[4] When the reply is defective, (the defendant) loses the case without any trial, [5] but when the reply is valid, a trial should be granted.

[6] About this YĀJÑAVALKYA says:

168 Then the party should immediately write down the evidence for the statements set forth (in the plaint and the reply); the one who succeeds in this wins the case; the one who does not, loses. [Y 2.7cd,8ab]

[1] 'The party' = the plaintiff and the defendant. - [2] 'Immediately' means: therefore, no adjournment should be granted in pointing out and producing evidence. [3] Thus KĀTYĀYANA says:

169 The king should not grant any delay in the deposition of witnesses; an adjournment would cause a serious defect, viz. turning away from the sacred law. [K 339]

[1] That means: no delay should be granted in producing witnesses and making them depose; by appointing witnesses, by making witnesses appear, etc., otherwise, one would effect a breach of the sacred law.

[2] (TWO KINDS OF TRIAL.)

There are two kinds of trial. [3] Thus BṚHASPATI says:

170 It is said that there are two kinds of trial, human and divine. The sages who expound truth divide both of them into many different types. [B 4.6]

171 The human trial is said to be of three kinds:

---

170 The translation 'human' trial as against 'divine' trial has been chosen because it closely represents the Sanskrit equivalents: mānuṣī and daivikī kriyā. As will be seen in 171, the trial is 'human' when the investigation is carried out by means of witnesses, documents, possession, or circumstance, without any reference to a supernatural power; in the latter case, the trial is 'divine'.

witnesses, documents, and inference; the divine trial is said to be of nine kinds, beginning with the balance and ending with the ordeal of dharma. [B 4.7]

[1] [B 4.7] 'Documents' implies a reference to possession. - [2] All nine (ordeals) from the balance up to the ordeal of dharma will be enumerated by THE SAME AUTHOR (cf. 541,542).

[3] Among these the divine (trial) is of two kinds, for one makes a distinction between oaths and ordeals. [4] Thus BṚHASPATI says:

172 Truth; chariots and weapons; cows, seeds, and gold; the feet of gods and brāhmaṇas; the heads of sons and wives, [B 8.33]

173 Such are the different oaths; they are easy to perform and apply to minor matters. In cases of violence and curses they prescribe ordeals as the adequate means of purgation. [B 8.34]

[1] HALĀYUDHA, however, does not distinguish between ordeals and oaths.

[2] (RELATIVE WEIGHT OF HUMAN AND DIVINE TRIAL.)

KĀTYĀYANA:

174 When one party offers a human trial whereas the other produces a divine trial, one should accept the human trial but never the divine. [K 218]

171.1 Vāc's interpretation cannot be said to be completely convincing, for it is neither logical nor usual that the term lekha would stand for documents and possession as well. When human trial is said to be of three kinds, this normally refers to witnesses, documents, and possession. The latter being omitted in B 4.8 ab and replaced by anumāna (inference), it had to be supplemented in one way or another. YApa 2.22 prefers a different solution: anumāna stands for bhukti, since the possessor's right of ownership can be inferred from the fact of his possession. Vāc did not follow this solution because in this way the enumeration does not cover one kind of human evidence, viz. yukti or 'circumstance' (cf. Part III, Section D). Later on both solutions have been compromised, when anumāna is said to stand for 'possession, etc.', i.e., possession and circumstance (Vta 211).

172 The feet of gods and brāhmaṇas. This interpretation differs from that of Jolly who both here and for the same expression in N 1.248 translates: 'venerable gods and brāhmaṇas (N 1.248: deified ancestors)'. It has also been accepted by Kane (Vma tr., p.43, 75), and it is supported by modern descriptions of the oath (cf. Steele A. Summary of the Law and Custom of Hindoo Castes. London 1827. P.284).

175 When in a dispute of men both a human trial and a divine trial are possible, one should choose the former even if it only covers one part, but not the latter even if this is complete. [K 219]

[1]'Even if it covers only one part' is either (1) a (superfluous) eulogy, or (2) it refers to a part that is invariably connected with the other parts, or (3) it applies to a wager like this: "I will pay everything as soon as only one part will be proved".

176 In law-cases one should not accept a divine trial when witnesses are available; and when there is a document, one should not accept an ordeal or witnesses. [K 223]

[1]Further:

177 When a plaint contains several items, the creditor recovers as much property as he is able to prove by means of witnesses. [K 473]

[1]This refers to cases where the items are not necessarily mutually connected.

[2](THE BURDEN OF PROOF.)

VYĀSA:

178 In the case of a former judgment or a reply by way of exception the burden of proof is upon the defendant; in the case of a denial, upon the plaintiff; in the case of a confession, there is no burden of proof. [Vy 1.29]

179 In the case of a denial the burden of proof is upon the plaintiff; in the case of an exception, upon the defendant; when the latter succeeds in proving a former judgment, he should obtain the certificate of the decree. [Vy ?]

[1]((1) DENIAL.)

'In the case of a denial' = when there is a reply

175.1 A (superfluous) eulogy. I.e., a statement which should not be taken literally, but which is merely intended to stress the greater weight of human evidence as against divine evidence. In other words: this rule should not always be followed.

by way of denial, the burden of proof is upon the plaintiff, and he should offer a human trial.

[2] The reason (why the burden of proof is upon the plaintiff) is the principle of equity according to which the defendant cannot produce evidence for his statement: "I did not appropriate it". [3] The fact that here too, the positive aspect only should be demonstrated is not due to the consideration that a negation cannot be demonstrated. [4] Indeed, in the case of a curse it is the very negation that should be examined. [5] Thus the idea is discarded, that the positive aspect should be demonstrated because it is more easily done and because it comes up first.

[6] Objection (to the requirement that the trial should be human). (In Vy 1.29) the words 'the burden of proof' should also be supplied in the case of a reply by way of denial, and their meaning should be identical with that of the same words when they are construed in the case of a former judgment and the reply by way of exception (in the first half of the verse). [7] Therefore, in the case of a reply by way of denial supernatural evidence too, is allowed for the plaintiff only.
[8] Refutation. Supplying a word (from a preceding sentence) simply means to bring the word again into a grammatical connection with a word that is explicitly mentioned, but it does not involve that the meaning of the word should remain unchanged, because this would be unnecessarily cumbersome.

179.4 Curse. The term abhiśāpa means: charging somebody with one of the major sins (cf. 663.3). In that case the plaint is as follows: "He falsely charged me with a major sin which I have not committed". When the defendant denies the fact that this charge would be false, the burden of proof is upon the plaintiff, who has to prove that he did not commit the major sin which he has been charged with.

179.8 Unnecessarily cumbersome. It is a basic rule of interpretation that "The construction which makes the meaning simpler and shorter is to be preferred" (SMRI, p.82). Consequently, some interpretations should be rejected gauravāt = "because they are unnecessarily complicated", whenever an easier interpretation is equally possible. The principle is referred to in the present passage under the following circumstances. In Vy 1.29 (Vyci 178) it has first been said that in the case of a reply by way of exception the burden of proof is upon the defendant. We know that in this case the burden of proof should be discharged by means of 'all kinds of natural and supernatural evidence' (184; cf. also 191.2). Again, in Vy 1.29 the same words 'the burden of proof' should be supplemented with 'in the case of a denial'. The objector says that, when words are supplemented from a preceding passage, they

[9]In the absence of such (human trial), however, one may accept a divine trial. [10]Thus YĀJÑAVALKYA says:

180 (Human) evidence is of three kinds, documents, possession, and witnesses; when all of these are missing, ordeals are prescribed as the other alternative. [Y 2.22]

[1]The question, who should undergo the divine trial, can be summarized as follows.
(1) (As a general rule it should be administered) to the defendant. Indeed, consider the following text establishing (the administration of) an ordeal:

181 No one should subject the plaintiff to an ordeal; according to the experts on ordeals the ordeal should be administered to the defendant. [K 244=411]

[1]Since in the first half (of the verse) it is forbidden to administer the ordeal to the plaintiff, the latter half must be presumed to contain the injunction that it should be limited to the defendant, [2]for, when it is known (that a goal can be reached in various ways), an injunction serves the purpose of fixation.

----

should preserve the same connotation. That means that in the case of a denial too, the burden of proof should be discharged by means of natural evidence and supernatural evidence as well. Vāc does not accept this principle that words should preserve their original connotation when being supplied again in another part of the same text, because doing so would involve an unnecessary complication.

181.2 This sentence refers to niyamavidhi (= injunction of fixation) which is an important concept in the Mīmāṃsā-doctrine. The classical illustration of niyamavidhi is as follows. In connection with the Darśapūrṇamāsa-sacrifice it has been prescribed: "He beats the rice". The point is that the husks have to be removed, but this is possible in various ways. The above prescription has been intended to prevent that the husks should be removed in any other way than by beating rice. In other words: it is an injunction of fixation (of the instrument to reach the goal). Technically it has been said that, when something is only partly established (it is established that the husks should be removed, but it is not said how), the injunction of fixation supplies the unestablished part. Cf. MNp, par.243. This concept is, now, applied to the rule concerning the ordeals as follows. K 244 refers to a case in which it is established that, when an ordeal is appropriate, it should not be administered to the plaintiff. In this way the administration of the ordeal is still established partly only, since it is not established who is to undergo the ordeal. This part is supplied by the injunction of fixation in the second half of the verse. Actually it cannot be denied that Vāc's interpretation is rather far-fetched. If the second half of the verse was intended as a niyamavidhi, the negation in the first half became unnecessary, since it was implied by the niyamavidhi itself. In that case the former half would be a mere anuvāda, i.e., an allusion to something which has been laid down elsewhere.

[3](2) When (the defendant) is uncertain or sinful and the plaintiff is free from such faults, the (divine trial) should be administered to the latter, for there is no other way-out.
[4](3) When both parties are equally faultless and equally certain, it may be administered to the party who is willing to undergo it, [5] according to the text Y 2.96.
[6](4) When both parties are equally willing to undergo it, it should be administered to the defendant only, [7] according to the text Y 2.22 referred to above.

[8]((2) REPLY BY WAY OF EXCEPTION.)

In the case of a reply by way of a stronger exception the burden of proof is upon the defendant. Thus KĀTYĀYANA says:

182 When (the defendant) accepts the cause mentioned in the plaint but produces another more weighty cause for his statements in the reply, the latter should be proved, but no other one. [K 191]

[1]That means: when the defendant (1) accepts the cause why the object mentioned in the plaint is due, e.g., the fact that he appropriated the debt, and (2) when he, then, tries to invalidate this by producing a stronger cause (= exception) for his statement in the reply, e.g., the fact that it has been cleared off, - then the latter cause should be proved by the defendant, 'but no other one' = not an equally strong exception or one that is less strong.

[2]Further:

183 When a point has been set forth by the plaintiff and the defendant accepts it but he produces a cause, Bhṛgu calls this weakness. [K 170]

[1]'A cause' = a cause which overrules the content of the plaint. - [2] 'Weakness' should be supplemented as follows: (weakness) of the plaint (,[3] as is clear from the following text of) NĀRADA:

184 When in a lawsuit the content of the plaint is such that it is weaker (than the reply), the witnesses of the defendant should be questioned. [N 1.164]

[1]'Witnesses' is illustrative of all kinds of natural

and supernatural evidence.

[2] When the defendant produces (a reply by way of) an equally strong exception, the burden of proof is upon the plaintiff. Thus NĀRADA says:

185 When two people are engaged in a lawsuit and both have witnesses, one should call the witnesses of the party who spoke first (= the plaintiff). [N 1.163]

[1] YĀJÑAVALKYA:

186 When there are witnesses on both sides, one should call the witnesses of the party who spoke first; if the latter's case is inferior, (one should call) the witnesses of the party who spoke last. [Y 2.17]

[1] N 1.163 and Y 2.17 refer to the case where the witnesses of both parties are equal in all respects, for otherwise the result would be nonsensical.

[2] This is not inconsistent with the following text of KĀTYĀYANA:

187 When the witnesses are equal, one should clear (the case) by means of ordeals, [K 232ab]

[1-2] because the latter refers to another case. [3] Indeed, it means that when the witnesses of one party declare mutually inconsistent facts and, thus, the doubt cannot be removed through their statements, then the decision should be made by means of supernatural (evidence).

[4] With regard to witnesses who are not equal, however, BṚHASPATI says:

188 When witnesses are not equal one should choose to follow the majority; when they are equal (in number), the most qualified ones; when they are equally well qualified, those who are devoted to religious acts; when these are equal , the most honest ones. [B 5.46]

189 In lawcases one should not accept a divine

184.1 This interpretation deviates from that of Vmāt 307 acc. to which 'witnesses' are illustrative of natural evidence only, but it is again followed by Vpra 59 which says that 'witnesses' implies a reference to any kind of evidence.

trial when witnesses are available; and when there is a document, one should not accept an ordeal or witnesses. [K 223]

[1] ((3) REPLY BY WAY OF FORMER JUDGMENT.)

In the same way the burden of proof is upon the defendant also in the case of a former judgment. Thus VYĀSA says:

190 If the party who replies by referring to a former judgment is found out to speak truth by means of a certificate of the decree, through (the interference of) the chief judge, etc., he obtains everything that is claimed by the (plaintiff). [Vy 1.30]

[1]BṚHASPATI:

191 The plaintiff should prove the statement; the defendant should prove the exception; he who maintains that the case had been settled before should prove his victory by means of a certificate of the decree. [B 4.3]

[1]'The statement' means: the plaintiff should by means of natural (evidence) prove the cause of the statement, e.g., the fact that something has been appropriated, which is denied (by the defendant). - [2]'The exception' = the defendant should by means of natural or supernatural (evidence) prove the reply by way of a stronger exception.

[3]Incidentally: THE DEFINITION OF A CERTIFICATE OF THE DECREE.

[4]About this KĀTYĀYANA says:

192 The words of the plaintiff and the defendant, the statement, the words of the witnesses, the decision, and how it has been ascertained by himself, [K 259]

191.3 Incidentally. The certificate of the decree is said to be treated 'incidentally', because it actually is a document and, consequently, it should be treated in Part III, Section B. It is described in the present chapter, since it has been said to be the only means through which the plaintiff is able to discharge the burden of proof in case of a reply by way of former judgment.

193 All this should be put down in writing, one after the other, syllable after syllable, as well as the assessors who were present and the experts in the prescriptions of the sacred law. [K 260]

[1] BṚHASPATI:

194 One should write down in the certificate of the decree everything that originated from the legal procedure: the plaint, the reply, etc., together with the trial and the decision. [B 6.27]

195 When the king gives to the victorious party a document containing the plaint, the reply, the trial, and finally the decision, this is called a certificate of the decree. [B 6.26]

[1] VASIṢṬHA:

196 (A document) covering the content of the probandum as it was set forth, together with the reply and the trial and together with the decision, is called a certificate of the decree. [Va ?]

197 It should be stamped by the chief judge, etc., and sealed with the king's seal. [Va ?]

[1] Further:

198 If a party rejects the probandum by means of real evidence, in that case there will be a paścātkāra; it is not allowed in all kinds of trial. [K 264cdef]

[1] The certificate of the decree is called paścātkāra because it is made [kriyate] at the end [paścāt].

[2] SOME say: A certificate of the decree is granted in those cases only where the victory has been ascertained through the examination of the sense of the words of the plaintiff, but not elsewhere.

---

198 Probandum. This unusual interpretation of the term kriyā, which is different from that of Kane (K,p.167), is based upon the comm. of Sca 131.

198.2 This limitation of the term jayapattra to cases where the decision is arrived at through the mere statement of the plaintiff goes back as far as K. K 264-65 opposes paścātkāra and jayapattra to the effect that the former applies to decisions that are reached after a complete trial in which evidence has been brought forward, whereas the latter is restricted to decisions in cases where the plaintiff is a hīnavādin (cf. note 203.8).

[3] This is wrong. [4] Since a former victory may have to be proved in other cases too, a certificate of the decree is rightly obtained in all cases.

[5] In order to prove the correctness of the decision the following items should be written down (in the certificate of the decree): (1) the plaint, (2) the reply, (3) the trial consisting of documents, witnesses, etc., (4) the decision, being the ascertainment of victory and defeat, and (5) the assessors who were present at the time of the decision. [6] The plaint and the reply should be written down in order to prevent a party's attempting to secure a review upon a different probans. [7] Indeed, one who has been defeated upon a reply by way of denial: "I did not appropriate it", cannot appeal to the court saying: "I have cleared it off".
[8] Thus KĀTYĀYANA says:

199 When a person neglects a strong plea and relies on a weaker one, he cannot again refer to the (former) plea once victory has been awarded by the judges. [K 221]

200 Once a legal procedure has been decided, evidence becomes useless, unless the document or the witnesses have been referred to before. [NMā 1.62]

201 Just as the qualities of rain are useless on ripe grain, evidence is useless for legal procedures that have been decided. [NMā 1.63]

[1] Since the word 'neglects' (in K 221) means an intentional neglect, it is upon this footing that a retrial is forbidden.

[2] EXAMINATION OF THE KIND OF TRIAL TO BE PREFERRED.

[3] About this KĀTYĀYANA says:

202 A witness is more weighty than inference, a document is more weighty than witnesses, possession which is uninterrupted and held for three generations is more weighty than these. [K 315]

[1] ((1) INFERENCE.)

'Inference' = pratyākalita. [2]This has been explained as follows by MANU:

203 One should find out the inward disposition of men by means of outward signs, such as sound, colour, movements, form, the eye, and behaviour. [M 8.25]

[1]'Sound' = an unusual sound, such as stammering, etc. - [2]'Colour' = also an unnatural one. - [3] 'Movements' = perspiration, trembling, his hair standing on end, etc. - [4] 'Form' = an unusual (form). - [5] 'The eye' = a frightened look. - [6] 'Behaviour' = changing his position, etc.

[7][K 315] 'A witness is more weighty than inference' means: since it is very difficult to prove that these signs occur under no other circumstances, a witness is more important than these.

[8]Further:

204 He who does not speak even after he has been told to do so, he who does not prove what he has said, and he who does not know what is prior and what is posterior, loses his case. [M 8.56]

205 When a person maintains that he has witnesses and when he does not produce them when he is told to do so, the judge should for that rea-

---

202.1 Pratyākalita. The usual meaning of pratyākalita in Vyci has been discussed above (87). The present text, where it clearly stands for 'circumstantial evidence', constitutes an exception to this. The unusual interpretation as 'inference' is not found in any earlier nibandha (as far as they are known); the only similar instance is afforded by Vta 218 where anumāna has been explained as pratyāsaṃkalita, which not only is a hapax legomenon itself but which seems to have been taken from Vyci.

203.8 Further. After a first category of cases to be decided by anumāna has been mentioned in 203 which, e.g., in Vka 77-79 ranks under the title duṣṭalakṣaṇa, the present word 'further' introduces a second category of people who are considered defeated on the basis of inference (204-215). In Vka 80-84, etc., the latter have been called hīna or hīnavādin = 'a man whose defeat is a matter of presumption' (206.2). Cf. WGJT, p. 324.

204 MMdhā 8.56 clearly states the element of inference and presumption involved in this case. The beginning of the verse refers to a man who has no proper answer to make and, therefore, instead of giving an unsuitable reply by which he would certainly be defeated, prefers to keep silent in order to leave the judges in doubt.

son also point out him as the loser. [M 8.57]

206 If the plaintiff does not speak he should undergo a corporal punishment and he should be punished according to the sacred law; if he does not speak after three fortnights he is defeated as far as concerns the sacred law. [M 8.58]

[1] [M 8.57] 'The judge' = he who investigates the case. - [2] 'The loser' = whose defeat is a matter of presumption.
[3] [M 8.58] 'Defeated' means: since his defeat cannot be proved otherwise, he should be defeated when it has been ascertained so by a very skilful (judge).

207 One should not privately approach witnesses cited by the other party nor should one divide them through another person; he who behaves in this way loses the case. [N 1.65]

208 There are four kinds of defeated parties: (1) one who takes to flight when he is accused; (2) one who remains silent; (3) one who is defeated by witnesses; and (4) one who confesses of his own accord. [NMā 2.32]

209 One says that there are five kinds of losers: (1) one who speaks differently (at different times); (2) one who is averse to the discussion; (3) one who does not appear; (4) one who does not answer; and (5) one who takes to flight when he has been summoned. [NMā 2.33]

[1] [N 1.65] 'Approach' should be supplemented as follows: for the sake of instigating them to betray their opponents. - [2] 'Through another person' = through a messenger, etc.
[3] [N Mā 2.32] Among the four kinds of defeated persons the defeat of the former two is a matter of presumption, that of the latter two is a matter of decision.

[4] KĀTYĀYANA:

210 When a party makes any addition or subtraction after he has written down his statement, he loses the case and he is not entitled to a new plaint. [K 197]

[1] This is applicable when (the party) fails to conform to the time-limit for amendation.

[2]BṚHASPATI:

211 When a party appoints witnesses but does not make them depose, he loses the case after thirty days or three fortnights. [B 3.33]

[1]Here the alternative periods are proportional to the relative importance of the case.

[2]NĀRADA:

212 In no lawsuit whatsoever is one defeated because of a sophistical statement; in cases of cattle, women, land, or non-payment of a debt, one should be punished but one does not lose the case (on such a ground). [NMā 2.35]

[1]That means: in lawsuits about cattle, etc., 'one does not lose (the case)' = one is not defeated, even though one deserves to be punished because of (acts that would notmally be) reasons for losing the case.

[2]BṚHASPATI:

213 When a party has decided to appear at a session of legal procedure or at an ordeal, and he does not appear, one should make him undergo the defeat. [B 3.40]

214 When in the meanwhile he is afflicted by a disqualifying mishap caused by the king or by fate, he should not be defeated merely because he fails to conform to the time-limit. [B 3.41]

[1][B 3.40] (Notice the unusual terms) ācāra = legal procedure, [2] and chala = defeat.

[3]B 3.41 means: although (in general) by not appearing the party accepts the defeat, defeat does not also fall to the party who does not appear by an act of fate, etc.

---

212 A sophistical statement. Although most commentators think of a mere erroneous statement out of carelessness, intoxication, etc. (YMtā 2.9, Mra 29, Sca 109, Vsā 37, Vta 205, Vpra 75), it should not be forgotten that vākchala also had a highly technical meaning in Nyāya which may have influenced Vāc's interpretation of the word. Chala in general "consists in the giving of false interpretations to the words of an adversary in discussion" (KILA, p.154). It is divided into three kinds, the first of which is vākchala, "the supposition of something different from that intended by the speaker in the case of a thing named by a homonym" (RILES, p.340). The stock example for vākchala is as follows: "This man has nava kambala", where the latter word is intended to mean "a new blanket", is interpreted as "he has nine blankets". This is possible because nava can mean "new" and "nine" as well.

[4] Further:

215 When the parties come to a mutual agreement after the plaint and the reply have been entered and after the trial has been started, they should be forced to pay double the amount. [B 3.42]

[1] When the parties make a private arrangement after the investigation has started, they should be punished (with a fine) twice as high as the subject-matter of the lawsuit.

[2] And this kind of inference, inasmuch as it can be understood only by very skilful arbitrators, is not for universal application. That is the reason why in K 315 it has been said to be less weighty (than witnesses).

[3] ((2) THE ORDEAL.)

The ordeal is of even less weight (than inference).
[4] Thus KĀTYĀYANA says:

216 In all lawsuits the king should always arrive at the decision by means of evidence, by means of a circumstance, or by means of an ordeal. [K 241]

217 He should be careful to use each following one only in the absence of the preceding, and never otherwise. [K 243ab]

[1] [K 241] 'Evidence' = possession, documents, or witnesses. - [2] 'A circumstance' = inference.
[3] Thus, K 241,243ab mean: since among possession, documents, witnesses, inference, and ordeals, each preceding one is more weighty than the following, the

---

215.2 This relative weakness of circumstantial evidence as against direct evidence due to the important part played in it by inference has been very clearly stated as follows: "In matters of direct testimony, if credence be given to the relators, the act of hearing and the act of belief, though really not so, often seem to be contemporaneous. But the case is very different when we have to come to a decision upon circumstantial evidence, the judgment in respect to which is essentially inferential. There is no apparent necessary connection between the facts and the inference; the facts may be true and the inference erroneous, and it is only by comparison, conscious or unconscious, with the results of observation in similar or analogous circumstances, that we acquire confidence in the accuracy of our conclusions" (Wills' Principles of Circumstantial Evidence. Combined English and Indian Edition. 7th ed. London etc. 1937.P.18).

following one should not be relied upon when it is possible to refer to the preceding one.

[4] KĀTYĀYANA:

218 Evidence is said to be of three kinds: documents, witnesses, and possession; (the other means of proof) in this world are the observation of characteristics that cannot occur otherwise [leśoddeśa], circumstance, and ordeals such as fire etc. [K 214]

219 Out of the desire to secure the welfare of the people in the case of a debt they prescribe a document, witnesses, circumstance, leśa, etc., or a divine trial. [K 233]

[1] Leśoddeśa is a tatpuruṣa-compound: the uddeśa = the observation, of a leśa = a characteristic that cannot occur otherwise. [2] Thus, leśoddeśa means the observation of characteristics that cannot occur otherwise.

[3] PITĀMAHA:

220 In lawsuits about immovable property one should avoid ordeals; one should prosecute these by means of witnesses, a document, or possession. [Pi 39]

[1] This rule is, however, meant only as a eulogy of witnesses, etc., inasmuch as they are the general rule in these cases; [2] but if they are not available, one may also rely upon an ordeal, for otherwise the uncertainty would continue.

[3] KĀTYĀYANA:

221 One should not administer an ordeal in case of verbal assault or in case of a dispute about land. [K 239]

222-223 In the following cases witnesses are prescribed as the only valid means of proof, but neither an ordeal nor a document: (1) breach of promise of a gift, (2) resumption of gift, (3) a decision of owners, (4) a case connected with the non-delivery of a thing sold, (5) when a person

---

219 Or a divine trial. The addition of the particle 'or' before the divine trial points to the fact that it is not on the same level with the other forms of evidence, but it is only used in the absence of them (Vni 73).

is not willing (to pay) the prize of a thing bought, and (6) when a lawsuit has been instituted about gambling and betting. [K 227,228]

224 As far as a custom peculiar to pūgas, śreṇīs, gaṇas, etc., is concerned, the only means of proving it is a document, but neither an ordeal nor witnesses. [K 225]

225 In a case of an undertaking connected with a gate or with a road, possession, irrigation, etc., possession is the only valid means of proof, but neither a document nor witnesses. [K 226]

226 When a dispute regarding an act of violence has come up, in a case of verbal or physical assault, and in case of acts that originated with force, the only valid means of proof are witnesses or an ordeal. [K 229]

[1] [K 227,228] 'Breach of promise of a gift' = when the object promised as a gift is not delivered. - [2] 'Resumption of gift' = when an object has actually been given but it is snatched away and taken back. - [3] 'A decision of owners' = a decision like this: "This belongs to this owner". - [4] The grammatical structure is as follows: in such lawsuits as breach of promise of a gift etc., the only valid means of proof are witnesses, but neither an ordeal nor a document. - [5] 'The prize' = the value of the object. - [6] 'Not willing' should be supplemented as follows: (not willing) to pay.

[7] [K 226] 'An undertaking connected with a gate or with a road': an undertaking connected with a gate = an undertaking (= an easement) about the control of water etc., by means of a gate; an undertaking connected with a road = an undertaking (= an easement) of moving cows etc. along the road. - [8] 'Possession' = an object enjoyed by right, e.g., a parasol, etc. -

----

224 Pūga, śreṇī, and gaṇa, are the names of associations of various kinds, which have not always been uniformly explained by the commentators. Other texts of K define them as follows: pūga is an association of merchants, etc. (K679cd); śreṇī is an association of artizans, craftsmen, etc. (K App 2cd); gaṇa is an association of brāhmaṇas, etc. (K 680ab). Cf. 32.3.

226 Vāc does not explain the apparent inconsistency of K 239 where the administration of an ordeal has been forbidden in the case of verbal assault, and K 229 which prescribes the questioning of witnesses or the administration of an ordeal in this case. Other comm. have explained this point as follows. K 239 refers to a major verbal assault, whereas K 229 applies to a minor one only (Sca 121, Mra 35, Svi 109, Vma 23).

[9] 'Irrigation' = the way along which water is carried. - [10] The word 'etc.' is comprehensive of utkara, etc. - [11] For these possession is the most weighty means of proof.

[12] PITĀMAHA:

227 In any lawsuit where no witnesses are available and in all acts of violence one should administer ordeals. [Pi 29]

[1] 'Acts of violence' = acts involving capital punishment.

[2] And further KĀTYĀYANA:

228 When the witnesses are equal, one should purge (one's cause) by means of an ordeal; and equally so in case of a lawsuit that involves capital punishment, even if witnesses are available. [K 232abcd]

[1] That means: in the following two cases an ordeal is the only possible kind of trial: (1) when the natural means of proof are equally divided, and (2) when the defeat would lead to capital punishment.

[2] NĀRADA:

229 Those who know the valid means of proof should carefully guard them, for the means of proof fail on account of men's offences. [N 1.68]

[1] 'Offences': such as forgetfulness on the part of witnesses, etc.

- - - - -

226.10 It is difficult to be sure about the meaning of the word utkara, which is the example given by Vāc for other rights similar to those mentioned in K 226 but not explicitly enumerated there. Even if Vāc's resolution of the compound is not the only possible one, there can be no doubt that the text refers to rights which are of a customary, somewhat intangible character, which are enjoyed at regular intervals, and which lose their force if they are allowed to lapse. Consequently, the right of utkara is to be of a similar sort. Its original meaning being "heap, collection", and further "rubbish", it is not impossible that the author wants to refer to the right of carrying one's rubbish and waste-matter along the property of another person or to the right of piling it up in a place owned by somebody else. Cf. for a similar interpretation: YMtāSbo 2.22 (Dhko 231): the right to use a privy etc. On the basis of the meaning "collection", it might not be out of place to suggest a reference to the right of public meeting in a place.

(229) [2] (SECTION A : WITNESSES.)

Since legal procedure is in most cases completed by means of witnesses, these will be treated (first).

[3] About this GAUTAMA says:

230 In case of a dispute the decision is based upon the authority of witnesses. [G 13.1]

[1] This should be supplemented as follows: in most cases.

[2] MANU:

231 The authority of a witness is based on the fact that either he has actually seen the facts or he has heard them. [M 8.74ab]

[1] That means: a witness [sākṣin] is a valid means of proof because he has seen the facts with his own eyes [samakṣa].

[2] (DIFFERENT KINDS OF WITNESSES.)

BṚHASPATI:

232 Witnesses are said to be of twelve kinds: (1) a subscribing witness, (2) one made to subscribe, (3) a secret witness, (4) a reminded witness, (5) one related, (6) a messenger, (7) a spontaneous witness, (8) one initiated into the transaction, [B 5.4]

233 (10) The king, (11) the chief justice, (12) the village. I will duly describe these different types one after the other. [B 5.5]

234 (1 = A1) He who writes down the name of his

---

231 MMdhā 8.74 stresses the fact that 'sees and hears' (to which one should add: 'with one's own ears') are illustrative of all four instruments of valid knowledge recognized by the NAIYĀYIKAS: perception, inference, analogy, and word (= the assertions of reliable persons). This verse is intended as an etymological explanation of the term sākṣin, i.e., a person who has seen the facts sa(ma)kṣa = with his own eyes, directly. Cf. Pāṇini 5.2.91.

caste, his own and his father's name, and his residence, should be technically known as a subscribing witness. [B 5.6]

235 (2=A2) He who is openly noted down by the party at the moment when the debt etc. is contracted, together with the parts of the transaction, is called a witness made to subscribe. [B 5.7]

236 (3=B1) He who is placed behind a wall in order that he should hear the words of the debtor and who, then, reports according to the truth when these words are being denied, is called a secret witness. [B 5.8]

237 (4=A3) He who is invited and made a witness in such transactions as a debt, a deposit, etc., and who is repeatedly reminded of it, is termed a reminded witness. [B 5.9]

238 (5=A4) When in a partition, a gift, or sale, a relative is appointed who is equally disposed towards both and who knows the sacred law, he is called a related witness. [B 5.10]

239 (6=B2) When a honest man, who is respected by both, is sent to hear the speeches of the plaintiff and the defendant, he is called a messenger. [B 5.11]

240 (7=A5) Whenever a person voluntarily approaches when the trial is to be heard and says that he is a witness in this case, he is called a spontaneous witness. [B 5.12]

241 (8=B3) When a witness who is about to go abroad or who is about to die relates to another person what he has heard, know the latter to be an indirect witness. [B 5.13]

242 He should also be technically known as an indirect witness who has heard or who has been made to hear the repeated statements of witnesses. [B 5.14]

243 (9=A6) A person in whom there is confidence by both parties or to whom the transaction has been disclosed, and who acts secretly, should be known as a witness who has been initiated into the transaction. [B 5.15]

244 (10=B4) If the king himself has heard the words of the plaintiff and the defendant, he himself may be a witness when both of them are engaged in a lawsuit. [B 5.16]

245 (11=B5) When a case is instituted again after the legal procedure has been decided, the chief

judge together with the judges may be witnesses there, but in no other case. [B 5.17]

246 (12=B6) If anything has been spoiled or destroyed all around the boundary, an inhabitant of the village may, no doubt, be a witness, even if he has not been appointed. [B 5.18]

[1] These witnesses should be divided into two groups: (witnesses) de visu and (witnesses) de auditu. [2] Both of them are of six kinds. [3](A) The first group is of six kinds, according to its subdivision into (A1) a subscribing witness, (A2) one made to subscribe, (A3) a reminded witness, (A4) one related, (A5) a spontaneous witness, and (A6) one initiated into the transaction. [4](B) The latter group too, is of six kinds, according to its subdivision into (B1) a secret witness, (B2) a messenger, (B3) an indirect witness, (B4) the king, (B5) the chief justice, and (B6) a village.

[5](A1) The definition of the first one of the first group of six has been given in B 5.6. [6]This means: the observer of the transaction who writes down the evidence of his own accord is a subscribing witness.
[7](A2) The definition of the second has been given in B 5.7. [8]This means: the observer of the transaction who is noted down by a merchant etc., is one made to subscribe.
[9](A3) The definition of the third has been given in B 5.9. [10] This means: the observer of the transaction to whose memory the fact is brought is a reminded witness.
[11](A4) The definition of the fourth has been given in B 5.10. [12] This means: the observer of the transaction who is a relative of the debtor etc., is a related witness.
[13](A5) The definition of the fifth has been given in B 5.12. [14]This means: the observer of the transaction who is neither blamed nor honoured (by the party) is a spontaneous witness.
[15](A6) The definition of the sixth has been given in B 5.15. [16]This means: the observer of the transac-

---

246.11 Sanābhi is the collective name for a limited group of maternal relatives, cf.297. It is, however, very unlikely that the same restriction should be applied here; it probably stands for relatives in general.

tion who has been present at the dealings of the transaction is one initiated into the transaction. - [17] The impersonal construction '(in whom) there is confidence'[viśvastam] = a person in whom both parties have confidence. - [18] The alternative particle 'or' stands for a cumulative particle. - [19] This should be understood as follows: inasmuch as the case has been disclosed to him, this is a witness de auditu; nevertheless he is ranked among the group of witnesses de visu on account of his having been initiated into the case.

[20] (B1) The definition of the first one of the latter group of six has been given in B 5.8. [21] This means: he who has heard the words of the defendant referred to by the plaintiff without the latter's knowledge is a secret witness.
[22] (B2) The definition of the second has been given in B 5.11. [23] This means: he who has been sent (by one party) to hear the words (of the other party) which are helpful for the decision, is a messenger.
[24] (B3) The definition of the third has been given in the two verses B 5.13,14. [25] This means: he who can help to decide the case because (he has heard) the statement of a witness is an indirect witness.
[26] (B4) The definition of the fourth has been given in B 5.16. [27] This means: another witness (is the king), when he has heard the plaint and the reply. [28] When the plaint etc., are, then, being denied, his (testimony) is decisive, since he knows how the plaint etc., have been produced before.
[29] (B5) The definition of the fifth has been given in B 5.17. [30] This means: (the chief judge or a judge) who knows about the former victory is the fifth witness.
[31] (B6) The definition of the sixth has been given in B 5.18. [32] This means: the resident of a village etc., who has observed the damage that is the cause of the plaint and who has heard about the boundary, the dam, etc., that may have been damaged, is the sixth witness.

246.18 In other words: this type of witness has to fulfil both requirements simultaneously: he is to enjoy the confidence of both parties, and he should have been present at the transaction.

[33]PRAJĀPATI:

247 Know that a witness is of two types, appointed and unappointed; he who is mentioned in writing is appointed; an independent (witness) is unappointed. [Pr ?]

[1]NĀRADA:

248 In the prescriptions (of the sacred law) the wise have shown witnesses to be of eleven kinds; of these the appointed witness is said to be of five types, the unappointed of six. [N 1.149]

249 The (appointed) witness is said to be of five types: (1) the subscribing witness, (2) the reminded witness, (3) the spontaneous witness, (4) the secret witness, and (5) the indirect witness. [N 1.150]

250 The others, however, are called unappointed: (1) the village, (2) the chief judge, (3) the king, [N 1.151]

251 (4) He who took part in the transaction, and (5) he who was incited by the plaintiff. (6) In lawsuits on families relatives too, may be witnesses. [N 1.152]

[1](Differently from NĀRADA) BṚHASPATI mentions twelve kinds of witnesses, due to the fact that he distinguishes between a witness subscribing on his own accord and one subscribing through somebody else.

[2]As far as the text of MANU is concerned, however:

252 Neither the king should be made a witness nor an artizan or an actor, [M 8.65ab]

[1]this prevents the king from <u>being made</u> a witness

----

252 This verse has been quoted here in order to remove its apparent inconsistency with B 5.16 (Vyci 244). The solution proposed by Vāc is undoubtedly more logical than that of Vni 100, where it has been said that the king may be a witness in matters which have come to his notice during the examination of causes , not in those which have come to his notice at another time. The artizan and the actor have only been referred to incidentally inasmuch as they happen to be mentioned in the same verse. As far as they are concerned, MMdhā 8.65 remarks that they should not act as witnesses for a double reason: (1) because the success of their business depends upon the good-will of the people, one should avoid people to have a grudge against them; (2) they often have a mean nature and are very much inclined towards dishonesty.

but not from being a witness. [2]Consequently there is no inconsistency (with B 5.16 and N 1.151).

[3]NĀRADA:

253 Even after a long time a subscribing witness retains his authority; if a man can, he should subscribe himself, but if he cannot, one should make him subscribe (with the help of somebody else). [N 1.167]

[1]N 1.167ab means: since writing actually recalls memory, this evidence can be given even after a long time.

[2]N 1.167cd means: the difference is as follows: if a witness is able to write, one should make him subscribe himself; but if he is not able to do so, (one should make him subscribe) by the hand of somebody else.

[3] COMPETENT WITNESSES.

[4]About this MANU says:

254 Now I will explain what kind of people the parties may appoint as witnesses in legal procedures and how they should speak the truth. [M 8.61]

255 Householders, those who have a son, those born of an indigenous family, whether kṣatriyas, vaiśyas, or śūdras, are competent witnesses if they are produced by a party, not everybody in times when there is no calamity. [M 8.62]

256 Competent people of all castes may be appointed as witnesses in lawsuits, as well as those who know the sacred law and who are not covetous; one should, however, avoid those who are the opposite of these. [M 8.63]

[1][M 8.61] (Notice the term) ṛta = truth.

---

255 Both for householders and people who have a son MMdhā 8.62 gives the following reason for their being competent witnesses. Those who do not belong to these categories might feel completely indifferent to the results of false evidence; if necessary, they can always save themselves by escaping to another country, etc. But if they are householders and if they have a son, in the interest of their family they have to set aside the idea of escaping to another country, and they themselves and their family will have to bear the punishment for false evidence.

256 Competent. Or: 'trustworthy'. Cf. MMdhā 8.63: men who do not sow dissention, who speak according to what they have seen, who cannot be suspected by other people.

[2][M 8.62] 'Born of an indigenous family' = born of a well known family. - [3]'Not everybody' means: in the absence of virtuous witnesses one should allow witnesses also on the mere ground that they are free from viciousness.

[4]YĀJÑAVALKYA:

257 Witnesses should be ascetics, liberally disposed, of good family, speaking truth, eminent in the sacred law, honest, having a son, well to do. [Y 2.68]

258 Know that they should be at least three in number [tryavara], proficient in the acts of śruti and smṛti; it is said that they should be of the same caste, of the same class, or all for all. [Y 2.69]

[1][Y 2.69] 'Of the same caste' [yathājāti] refers to mixed castes, [2]since the classes of brāhmaṇas etc., have been mentioned by the words 'of the same class'. [3]Or yathājāti might also mean 'of the same kind' = women for women, etc. [4]In this way the sense is as follows: even if the witnesses are equal in number, in virtues, etc., one should admit only those who are of the same class as the party(, [5]as is also the case in the following text of) MANU:

259 Evidence for women should be delivered by women; for Twice-born people, by Twice-born men of the same rank; for śūdras, by good śūdras; for the lowest ones, by people born of the lowest castes. [M 8.68]

[1]NĀRADA:

260 Know that witnesses should be of good family, honest, blameless with regard to their birth, acts, and fortune, at least three in number, ceremonially pure, and pure-minded. [N 1.153]

261 Brāhmaṇas, kṣatriyas, vaiśyas, and even irreproachable śūdras should be witnesses for people of their own caste, or also all for all. [N 1.154]

[1](THE NUMBER OF WITNESSES.)

'At least three in number' (in Y 2.69 and N 1.153). Tryavara are those for whom three is the smallest

number. So, the number of witnesses starts with three; and their maximum is nine, [3]as BṚHASPATI says:

262 They should be nine, seven, five, four, or just three; one may admit two if they are _śrotriyas_. Never should one question a single witness. [B 5.1]

[1] B 5.1cd means: only if they are actually provided with the above mentioned qualifications, one should admit _śrotriyas_ that are only two in number; but even a _śrotriya_ may not be admitted if he is single. [2] 'Śrotriya' means: better qualified than the witnesses who should be at least three in number.

[3] ŚAṄKHA:

263 Under no circumstances should a single witness be admitted. [ŚL ?]

[1] The words 'under no circumstances' mean, that even a qualified person should not be admitted (when he is single).

[2] This (refusal of a single witness) refers to cases in which there has been no mutual agreement (of both parties) to that effect. [3] In case of a mutual agreement, however, even a single (witness) may actually be made to depose. [4] Thus YĀJÑAVALKYA says:

264 In case of a mutual agreement even one person can be a witness if he knows the sacred law. [Y 2.72ab]

[1] 'Who knows the sacred law' is illustrative of all qualifications of a witness.

[2] NĀRADA:

265 If he has been mutually agreed to by both parties involved in the lawsuit, even a single person can be admitted as a witness, but he must be questioned in the court. [N 1.192]

[1] 'If he has been mutually agreed to' means: if he _has been_ the object of a mutual agreement. [2]It does not mean: if he _is qualified to be_ the object of a mutual agreement.
[3] Arguments: (1) The latter meaning would involve an indirect application of the words. [4] (2) For

---

265.4 The second argument why _ubhayānumata_ should be understood to mean '_has_

qualified people themselves, Y 2.68,69 prescribe a minimum of three. [5] (3) If Y 2.72ab and N 1.192 did indirectly indicate the fact that they are qualified, the word 'agreement' would be pointless, [6] since the person qualified for an agreement is already covered by the words: 'if he knows the sacred law'.

[7] VIṢṆU makes the same point clear as follows:

266 Now (the chapter on) witnesses. (They are:)
267 people of good family, behaviour, and caste, worshippers, ascetics, those who have a son, those who know the sacred law, students, those who speak the truth, those who know the three
268 Vedas, and elderly people. If he is provided with the required qualifications, however, by mutual agreement even a single person.
[Vi 8.1,8,9]

[1] If a single person is to be a witness, it is essential that both the occurrence of the required qualifications and a mutual agreement were combined. [2] As to the following point of view: "It is essential (only) that they should be present separately; [3] so, on a mutual agreement a single person may be a witness even if he is devoid of these qualifications and even if he is positively disqualified", - [4] this is wrong, [5] for this would amount to a split of the sentence on the ground of a split of the object.

----

been the object of a mutual agreement' and not 'is qualified to be the object of a mutual agreement' is as follows. 'Qualified to be the object of a mutual agreement' are all people who are qualified to be selected as witnesses in general, i.e., all people who possess the virtues enumerated in the above texts such as Y 2.68-69, etc. But there it has been said that even those 'virtuous' or 'qualified' persons have to be at least three in number. Consequently, persons who are ubhayānumata, of whom only one is required, cannot be identical with those 'virtuous' men for whom three is the necessary minimum. In order that a single person should be accepted to deliver evidence he must not only possess the said virtues or qualifications, but both parties must actually have agreed to allow him as a single witness.

268.5 It is a well known principle of Mīmāṃsā, that "as long as a sentence can be taken as a syntactical unit, it is not right to split it up". Consequently, since it is possible to take Vi 8.9 as a single sentence, one should not cause a split of the sentence by interpreting it as follows: 'If he is provided with the required qualifications, a single witness should be allowed', and 'by mutual agreement a single witness should be allowed'. In this case the split of the sentence is brought about through a split of the object, i.e., by referring both conditions which should be united in a single person to two different persons, respectively.

[6]VYĀSA:

269 If a witness is of pure behaviour, knowing the sacred law, and of reliable speech, he may deliver evidence even if he is alone, especially in cases of violence. [Vy 1.90]

[1]'Of reliable speech' = he whose speech may be relied upon to be true.

[2]KĀTYĀYANA:

270 He who has been initiated into a deposit may be made to deliver evidence even if he is alone; if (the deposit) has been solicited, even one person may be a witness if he is urged upon by a party. [K 353]

[1]'Has been solicited' qualifies 'a deposit'. - [2]The same rule applies elsewhere too, inasmuch as the motive is the same.

[3]Further:

271 The person who has created an article may deliver evidence for it; even if he is alone, he is considered an authority in the lawsuit (concerning this article). [K 354]

[1]'Created' = produced. - [2] 'An article' = an earring, etc. - [3] This rule should be understood applicable when there is no other such person and upon the hy-

---

270.1 This interpretation is undoubtedly far-fetched. For this reason it has been criticized in Vpra 113, where it has been rejected in favour of Mra 40, viz. yācita = yācitaka which, acc. to Hindu Law, is a specific kind of deposit. It is a contract through which "clothes, ornaments and the like are loaned to a person on the occasion of a marriage or similar festivity for adornment purposes" (SJS, p. 276).

270.2 It has been seen above (note 154.11) that the Hindu Lawyers believe the prescriptions of the sacred law to be based upon a nyāya = a logical or equitable principle or motive. In the present text an exception to the general rule requiring at least three witnesses is allowed on the basis of the nyāya that such contracts as deposits etc., are generally made without any witnesses at all. If it happens that a person has been initiated into the transaction, one should not refuse his evidence because he is single, but one should accept it because he is the only person who can be helpful to correctly decide the case. Vāc's comment extends the application of this rule to all cases where a similar nyāya applies. That means: a single witness should be allowed in all cases where no other witnesses are available and where the refusal of a single witness would amount to having no witnesses at all and to the impossibility to decide the case. The next verse illustrates this interpretation with the example of the craftsman who has created the object under dispute.

pothesis that the object has been stolen.

[4]MANU:

272 A man who is not covetous may be a witness even if he is alone; many women may not be witnesses even if they are pure, since the mind of women is unstable; nor may those who are tainted by other vices. [M 8.77]

[1]If his covetousness has been proved by evidence, a witness may not be admitted even on a mutual agreement of both parties. - [2] 'Covetousness', however, is illustrative of vice in general.

[3] INCOMPETENT WITNESSES.

[4]About this NĀRADA says:

273 In the prescriptions (of the sacred law) the wise have stated, that there are also five kinds of incompetent witnesses: on account of a text, because of viciousness, because of discord, a deposition suo motu, and a witness of intervening death [mṛtāntara]. [N 1.157]

274 Śrotriyas etc. (are incompetent) on account of a text; thieves etc., because of their viciousness; (witnesses are incompetent) because of discord when there is disagreement among the witnesses in a lawsuit. [N 1.157']

((1) INCOMPETENCE BECAUSE OF DISCORD.)

275 When witnesses have been called by the king in the decision of a particular case and their statements disagree, they are incompetent witnesses because of discord. [N 1.160]

[1]That means: witnesses who have been called in order to decide about the content of a particular plaint or the content of a particular reply are incompetent if their statements disagree.

[2]This rule should be restricted to discord of statements by witnesses who are equal in all respects. [3]Otherwise, however, a distinction should be drawn on the basis of the following text of MANU:

276 When witnesses disagree, the king should choose

(to follow) the majority; when the two factions are equal in number, the better qualified witnesses; when they are equally well qualified (in both factions), the brāhmaṇas. [M 8.73]

[1-2] This text is not concerned with the mere admission of witnesses, [3] for it says: 'choose'. [4] On the other hand, it is not correct to say that it is concerned with the relative weight of their statements, [5] for in that case 'choice' would be pointless.
[6] Nor does this (text) apply only to the case in which the witnesses of both parties are in disagreement, [7] for (the king) is put on his guard to a certain extent even when the difference is limited to the witnesses of one party only.

[8] YĀJÑAVALKYA also says:

277 When witnesses disagree, one should accept the words of the majority; when they are equal in number, those of the better qualified ones; when the qualified disagree, those of the most virtuous ones. [Y 2.78]

[1] The term 'words' does not mean 'choice' on the lines of M 8.73, [2] for this would involve a pointless indirect application of the word.

[3] Objection. (M 8.73 and Y 2.78) are in contradiction with the following text of KĀTYĀYANA:

278 If among subscribing witnesses and among those appointed by a party one speaks differently (from the others), all of them become incompetent witnesses because of discord, [K 359]

[1] which calls all witnesses incompetent as soon as one of them speaks differently (from the others).
[2] Refutation. [3] (1) The real purport of K 359 is as follows. No decision is based upon witnesses, if among three witnesses one speaks differently from the other two, since the second one who is equal to the first is his valid counter-balance, and the third one is left as the only (witness). [4] (2) The real purport of Y 2.78 is as follows. A decision is based upon witnesses when more than one remain over and above those who counterbalance each other. [5] Consequently, the text of KĀTYĀYANA must be restricted in such a way that it is not inconsistent with the motive upon which Y 2.78 is based.

[6] (2) DEPOSITION SUO MOTU.

This has been explained as follows by NĀRADA:

279 A witness who deposes suo motu is one who comes and speaks only of his own accord without having been appointed. [N 1.157''ab]

[1]Also KĀTYĀYANA:

280 If a witness says "This is false" or "This is true", without having been appointed, summoned or informed, he too, must be punished as a vile man. [K 404]

[1] (3) THE MṚTĀNTARA WITNESS.

This has been described as follows by NĀRADA:

281 A witness is mṛtāntara, if the party has died (between the facts and the trial); (his testimony is invalid) except if he has been mentioned by the person at the time of his death. [N 1.157''cd]

[1]'The party' = the creditor. - [2]'Except...' means: if the creditor, when he is about to die, points out to his heirs a witness saying: "That person owes me so much money, but this man knows about it", the latter is a real witness even though he is mṛtāntara.

[3]The reason why a mṛtāntara witness is (generally) incompetent, is explained by THE SAME AUTHOR as follows:

282 When a certain case would have been mentioned (by the party to another person), how can the latter be a witness in it after the former has died? On this ground a mṛtāntara witness is incompetent. [N 1.162]

[1]That means: when the plaintiff would have mentioned to a witness a fact that has become the object of a lawsuit, saying: "Know this thing", and when 'in it' = in the fact that would have been mentioned, the plaintiff who would have mentioned it is absent, how can the witness be a competent witness for this fact, since he has not heard the particulars of the case? It is for this reason that a mṛtāntara

is not a competent witness.
[2]What is meant is this. [3] When the plaintiff has died and his son does not know the details of a certain fact, (another person) cannot be a witness even if he does know them. Inasmuch as the fact has not been mentioned in detail, even a witness to whom the fact has been mentioned generally cannot be a witness with regard to such details as the quantity, etc., since this would amount to a deposition suo motu.[4] But when both the plaintiff and the witness know everything that is appropriate, the mṛtāntara is a competent witness.

[5]((4) INCOMPETENCE ON ACCOUNT OF A TEXT.)

THE SAME AUTHOR explains śrotriyas, etc., as follows:

283 Śrotriyas, ascetics, elderly people, and religious mendicants, all these are incompetent witnesses on account of a text; no other reason has been given for it. [N 1.158]

[1]'On account of a text' = because there is a text forbidding their appointment as witnesses. [2] They may not be made witnesses because of their great honourableness, because they are devoted to the practice of austerities, and because of their tendency to be unmindful of the topics giving rise to lawsuits. [3]But when they know the truth they actually may act as witnesses without being appointed. [4]Thus it has been said: [5] 'but one should admit two śrotriyas'. - [6]'No reason has been given for it' means: no other reason has been mentioned for this.

[7] ((5) INCOMPETENCE BECAUSE OF VICIOUSNESS.)

The witnesses incompetent as a result of their vi-

---

283 Śrotriyas. Notice the fact that śrotriyas only are considered incompetent witnesses, not brāhmaṇas in general. The nyāya underlying this text, viz. entire renunciation to earthly interests, applies to the former only, not to the latter (cf. Gonda, J. Notes on Brahman. Utrecht 1950. P.75-76, note 27). Vāc does not point out the apparent inconsistency between this text and other prescriptions which allow the testimony of two śrotriyas (cf. 262). The solution proposed by other commentators is as follows. One should never summon learned brāhmaṇas as witnesses

ciousness have been pointed out by NĀRADA as follows:

284 Thieves, violent people, passionate people, gamblers and hunters, all these are incompetent witnesses because of their viciousness; in them no truth is found. [N 1.159]

[1]MANU:

285 The following people should not be appointed (as witnesses): persons connected with the case, related people, friends, enemies, people of known guilt, people suffering from a disease, and corrupt people. [M 8.64]

[1]'Persons connected with the case' = those who would share the benefit of the victory. - [2] 'Related people' = those who are somebody's friends or enemies.

[3]NĀRADA:

286 A slave, dishonest people, an unbeliever, an elderly person, a woman, a child, a magician, a madman, one intoxicated, a negligent person, one struck by a calamity, a gambler, people who sacrifice for a village, [N 1.178]

287 One who travels long distances, a marine merchant, a sick person, one crippled, a single śrotriya, one devoid of good conduct, a eu-

----

because this might interfere with their religious practices, but there is no reason to refuse their testimony if they themselves wish to depose.

284 Hunters. The readings in the nibandhas greatly vary. The only nibandha which also reads vyādhaka is Ssā 101, for which term two possible meanings are found in the Lexica: a hunter (Amarakośa, ed. H.D.Sharma. Poona 1941. P.229) cf. M 8.260, and also: a wicked person (Medinīkośa, ed. KSS 41, p.79; Anekārthasaṃgraha, ed. KSS 68, p.22).

285.1 Persons connected with the case. MMdhā has a similar explanation, but he also has the following alternative. A debtor should not be summoned in a cause in which his creditor is involved, since he would be inclined to please the latter out of fear that he would require immediate repayment. Similarly a creditor should not be summoned as a witness in a lawsuit in which his debtor is a party, because it is in his interest that the latter should not be made short of money.

286 A magician. The word cākrika has been interpreted in various ways. The most common explanation is vaitālika = "a magician, conjurer, especially one who is a votary of Vetāla (a kind of ghost, esp. one occupying a dead body)" [Apte V.S. Practical Sanskrit-English Dictionary. Bombay [3]1924]; sometimes it has been interpreted as 'a bard, a panegyrist of the king' (Sca 179, Mra 43, Pdha 99). Other explanations are: 'a potter' (YApa 2.71), 'an oil-miller' (Vpra 118), etc.

nuch, an actor, [N 1.179]

288 An atheist, a vrātya, one who has abandoned his wife and his fire, people performing forbidden sacrifices, a friend who takes the same meals, an enemy, a relative, a sanābhi, [N 1.180]

289 A man of known guilt, an actor, one who lives on poison, a snake-catcher, a poisoner and an incendiary, a cultivator, the son of a female śūdra, one who has committed a minor sin, [N 1.181]

290 One fatigued, a violent person, one unwearied, one abandoned, one who extinguishes his fire, one of bad conduct, one who has not undergone the samāvartana-ceremony, the vendor of water or oil, a cheat, [N 1.182]

291 One possessed by an evil spirit, an enemy of the king, one who foretells rain and the stars, a conjurer, one who sells himself, an invalid, one who lives on the earnings of prostitution, [N 1.183]

292 One having bad nails, one having black teeth, a leper, one who misleads his friends, a malignant man, a vendor of spirituous liquor, a juggler, a greedy man, a cruel man, one who is hostile to corporations and associations, [N 1.184]

293 A killer, a painter, a cozening beggar, an outcaste, a forger, a quack, one who gives up his state of a mendicant, a thief, the king's servant, [N 1.185]

294 A brāhmaṇa who sells men, cattle, meat, bones, honey, milk, water, or butter, a Twice-born who practises usury, [N 1.186]

295 One who neglects his own sacred law, one who sows dissention, an informer, one who serves people of a lower caste, one who quarrels with his father, and one who divides people. All these are incompetent witnesses. [N 1.187]

----

288 The word vrātya is used in a double sense: (1) any person on whom and on whose ancestors the ceremony of the sacred thread has not been performed; (2) any person born of a mixture of castes (cf. note 19.6). Cf. [HH vol.II, p.96].

292 A cruel man. Ugra is also the name of a mixed caste. Cf. [HH vol.II, p.73-74], and Fick, R. Die Mischkaste der Ugras. In: Festschrift M. Winternitz. Leipzig 1933. P.279-86.

295 An informer. I.e., somebody appointed by the king to find out other people's vices and report them to him (Sca 180, Vpra 119).

296 If in corporations etc. of all kinds one member gets into enmity (with his associates), they should not depose for him, for all of them are his enemies. [N 1.156]

[1] [N 1.178] 'Dishonest people' = deceivers. - [2] 'An unbeliever' = one devoid of faith. - [3] 'An elderly person' = one whose organs of sense are enfeebled. - [4] 'A woman': (a woman) cannot be a witness for men. - [5] 'A child' = who has not attained discretion.
[6] [N 1.179] 'One who travels long distances' = one who goes on long travels. - [7] 'A sick person' = one who is very much afflicted by sickness. - [8] 'A single śrotriya': since two śrotriyas have been prescribed (as a minimum), this too, is not allowed. - [9] (Notice the term) klība = a eunuch. - [10] 'An actor' = a stage player.
[11] [N 1.180] 'A friend who takes the same meals' = one who eats the same food. - [12] 'An enemy' = one who acts as an enemy of the party. - [13] Sanābhis have been enumerated by KĀTYĀYANA:

297 Mother's sisters' sons, one's own sisters' sons, and maternal uncles are called sanābhis; they cannot act as witnesses. [K 362]

[1-2] [N 1.181] 'An actor' means a stage player other than a dancer. - [3] 'One who lives on poison' = a dealer in antidotes (against poisoning). - [4] 'A snake-catcher' = a snake-catcher who lives on snake-charming. - [5] 'A poisoner and an incendiary' = a person who uses poison, fire, and other objects that are bad to other people. - [6] 'A cultivator' = a ploughman. - [7] 'One who has committed a minor sin' = one oppressed by a minor sin.
[8] [N 1.182] 'One fatigued' = one highly distressed. - [9] 'One unwearied' = one who performs unsuitable acts. - [10] 'One abandoned' = one expelled by the village, the king, the family, the corporation, etc. ; [11] SOME AUTHOR says: one free from fear of men. - [12] 'One who extinguishes his fire' = one who extinguishes a consecrated fire out of anger, etc. - [13] 'One of bad conduct' = one who gives up his own

----

296.11 Vpra 118 quotes another interpretation of the word sahāya separately from ekasthālī: 'one who gives assistance to one of both parties'. This interpretation is ascribed to MIŚRA and CAṆḌEŚVARA. Although in YVmi MITRAMIŚRA always refers to Vāc by means of the title MIŚRĀḤ (cf. Appendix C), such cannot be the case here. Vpra 118 also mentions Vāc's explanation of ekasthālīsahāya but anonymously.

work. - [14] (Notice the term) asamāvṛtta = one who has not undergone the samāvartana-ceremony. - [15](Notice the term) tailika = an oil-vendor. - [16] 'A cheat': mūla = deceit; mūlakārin = one who occupies himself with this.
[17][N 1.183] 'A conjurer' = one who habitually curses others. - [18] 'An invalid' = one whose body has less than the usual dimensions.
[19][N 1.185] 'A cozening beggar' = one who occupies himself with mendicancy by making bulls dance. - [20] (Notice the term) pratyavasita = one who has given up his wandering life.
[21][N 1.187] 'One who divides people' = one who is inclined to sowing dissention.

[22]All these are termed wicked people because they may be suspected of covetousness, etc. [23] Accordingly MANU says:

98 Evidence is considered invalid when it is given out of covetousness, folly, fear, friendship, passion, anger, ignorance, and childishness. [M 8.118]

[1] Although the rest of the witnesses are already excluded by the special injunction (= M 8.118) and, therefore, the explicit enumeration is pointless, nevertheless (the incompetent witnesses have been enumerated explicitly) in order that they should not be used even in the absence of those who have been prescribed (as competent witnesses). It is the same case as when the words "Māṣa-beans,

---

297.14 Samāvartana is the ceremonial bath at the end of the period of studentship (the first stage of life), when the student leaves the teacher's house to eturn to his father's. Cf. [HH vol.II,p.405-15].

297.19 A cozening beggar. Although this meaning is not generally found for the ord śaṅkha in the Lexica, it has been preferred here because it also occurs in xactly those nibandhas where the explanation of the term corresponds to that given n Vyci: Vka 111, Mra 44, Vca 22, Vsau 44, Vpra 119 (where also Vyra has been uoted). Other nibandhas read: maṅkha, which is a more common term for a particuar kind of mendicant (NMs 2.164).

298.1 The text: 'The oblation consists of mudga-beans; indeed, māṣa-beans are ot fit for being used at the sacrifice', has been referred to in the comm. on JAIMINI's Mīmāṃsāsūtras (6.3.20). Here the following question is raised: when the substance which has been prescribed for the sacrifice becomes spoiled, is one entitled o use the forbidden substance as a substitute for it or not? The answer is in the egative. This reasoning is applied to witnesses as follows. When no persons ful-

indeed, are not fit for the sacrifice" are added even after it has been said: "The oblation consists of mudga-beans". [2] So, the intention is as follows: when the prescribed competent witnesses are not available one may allow those who have neither been prescribed nor forbidden, but when they have been explicitly forbidden, they cannot be allowed under any circumstances.

[3] This testing of witnesses (as to their competence) applies to debts, etc., only, but not to acts of violence, etc., [4] as KĀTYĀYANA says:

299 One should test witnesses in such stable transactions as debts, etc.; such test is not approved in acts of violence and urgent cases. [K 365]

[1] Further:

300 One should not test witnesses in a case of transgression of a royal order, in a case of adultery, violent acts, theft, and both kinds of assault. [K 366]

[1] 'Adultery' [saṃgraha] = taking possession of [grahaṇa] completely [samyak], by sending betel, etc., to another man's wife as her lover.

301 In accusations that refer to something that happened indoors, at night, and outside the village, no testing of witnesses takes place. [K 367]

[1] MANU:

302 One should not test witnesses in any kind of violent act, nor in theft or adultery, nor in verbal or physical assaults. [M 8.72]

[1] UŚANAS:

303 A slave, a blind person, a deaf one, a leper, a woman, a child, an old man, etc.; even these are considered competent witnesses in an act

---

filling the requirements of competent witnesses are available, they may be substituted by any person not fulfilling these requirements except for those who have been explicitly said to be incompetent witnesses.

of violence if they are unrelated. [U ?]

[1] Since such acts as theft, adultery, etc., are done only in a concealed way, it is only by chance that afterwards witnesses can be found; on that ground they should not be put to a test. - [2] 'Unrelated' = having no interest in the outcome of the offence under consideration.

[3] Even in these cases some (witnesses) should be avoided, as KĀTYĀYANA says:

304 Even they may be witnesses when the case reaches a certain importance. [N 1.188cd]

305 Even for them neither a child, nor a single person, nor a woman, nor a cheat, nor a relative, nor an enemy can be (a witness); these would be likely to deliver false evidence. [N 1.190]

306 A child might make a false statement through ignorance, a woman through falsehood, a cheat through attachment to mischief, a relative through affection, an enemy through requital of enmity. [N 1.191]

[1] [N 1.190] 'A single person' = one devoid of the qualifications mentioned above and without a mutual agreement (between both parties).
[2] There is no inconsistency inasmuch as the rule in which women etc., are allowed to be witnesses (cf. 303) is denied here, [3] for that rule refers to cases in which there are no other witnesses. [4] Thus MANU says:

307 In the absence (of competent witnesses, evidence) may be delivered even by a woman, a child, an elderly person, a pupil, a relative, a slave, or a servant. [M 8.70]

---

304 Even they refers to 'A slave etc. (N 1.178, etc.) as it has been said in the former half of the śloka which is not quoted here.

305 Even for them refers to a number of cases mentioned in N 1.189: violence, theft, adultery, and verbal and physical assault.

307 MMdhā 8.70 even further limitates the field of application of this rule. Women should be allowed only when competent witnesses are not available, but even then this would be the case only when it is possible to question them immediately out of fear that otherwise they might have changed their opinion under the influence of the other party. This is a direct application of the very reason why women are not allowed to be witnesses, viz. the instability of their minds (M 8.77, Vyci 272).

[1]Witnesses may be disqualified in cases of actual corruption only, as BṚHASPATI says:

308 One should disqualify the witnesses appointed by a party in cases of an actual default; when a party disqualifies an innocent (witness), he is liable to an equal punishment. [B 5.21]

[1]'Equal' = equal to the subject-matter of the lawsuit.

[2]When the disqualification of a witness is known to the assessors and to all others, it should be taken into consideration, and it is not correct again to disprove it by at least three witnesses, etc., [3] since this would amount to a regressus ad infinitum, [4] as NĀRADA says:

309 When the disqualification of witnesses is known to the assessors or also when it is publicly known, it should be taken into consideration; it should not be proved, for in this way a defect is avoided. [Vy 1.97]

310 If a disqualification of earlier witnesses were to be proved by other witnesses, this would amount to the defect of a regressus ad infinitum, since it would be possible again (to prove a disqualification in) the latter by means of other (witnesses). [Vy 1.96]

[1][Vy 1.97] 'It should not be proved' = it does not deserve to be proved, because it is accepted as true. - [2]'Because a defect is avoided' = because it is free from a regressus ad infinitum.

[3]BṚHASPATI:

311 When in a lawsuit somebody's document or witnesses are proved to be defective, his case does not succeed as long as he does not clear them. [B 5.29]

[1]'His document or witnesses': in other words, his evidence.

[2]Further:

308.3 Indeed, the witnesses proving the disqualification of the original witness could again be proved disqualified by other witnesses, etc. The regressus ad infinitum (anavasthā) has been made use of as early as Nsū 4.2.25, but it has not been theoretically explained there; acc. to some, the concept should be referred to Sāṃkhya-philosophy. Cf. KILA, p.156-57.

312 If at the moment when the judgment has commenced one party in his turn institutes a lawsuit concerning the evidence given by witnesses, the king should investigate this for him. [B 5.30]

[1]That means: if a party institutes another suit, saying: "This is a false witness", the king should investigate this.

[2]KĀTYĀYANA:

313 One should not refuse evidence because it is untrue, but only on the basis of a defect; in case of a false charge the party should be punished and he fails to establish his <u>probandum</u>. [K 278=380]

314 The defects of the evidence too, should be pointed out by the party; the secret ones, however, are brought to light by the judges in due time, because they explain the prescriptions (of the sacred law). [K 275]

[1]That means: all defects that have not been pointed out by the party because of ignorance, must be mentioned by the judges, bringing them to light by explaining the (relevant) prescriptions (of the sacred law).

[2](THE QUESTIONING OF WITNESSES.)

Now we will explain how witnesses should be questioned.

[3]About this KĀTYĀYANA says:

315 The king should not grant any delay in the deposition of witnesses; a delay would mean a great sin consisting in turning away from the sacred law. [K 339]

----

314 <u>In due time</u>. It is not quite clear what Vāc understands by 'in due time'. Perhaps we must assume, that he considers this problem already to have been solved in B 5.30: 'at the time when the judgment has commenced' (Vyci 312). The same solution has also been proposed in Sca 192. Other explanations are found: (1) again in another passage of Sca 142: 'at the time when the evidence is examined'; (2) in Vpra 122: 'before the witnesses depose'.

[1] NĀRADA:

316 After having summoned the witnesses and bound them rigidly by means of oaths, he should question all of them one by one; they must be persons whose conduct is well known and who are aware of the facts. [N 1.198]

[1]Objection. How is it that they should be questioned one by one? This, indeed, is inconsistent with the following text of GAUTAMA:

317 They should not speak if they are questioned unassembled. [G 13.6]

[1-2] Refutation. [3]This inconsistency has been removed by KĀTYĀYANA, [4]as this author says:

318 If anything has been seen by the witnesses collectively, they should depose in the same way; but if they have done an act separately, they should depose one by one. [K 394]

319 If an act has come to the knowledge of witnesses at different times, one should make them depose one by one at different times: thus Bhṛgu. [K 395]

[1]When a fact has come to their notice collectively, they should be questioned collectively, too; [2]but when that fact has come to their notice separately, (they should be questioned) one by one. Thus there is no inconsistency.

[3]KĀTYĀYANA:

320 One should question (witnesses) openly in the presence of the plaintiff and the defendant and in the presence of the subject-matter of the evidence, never privately. [K 388]

321 Sometimes (the witnesses) should speak in the presence of the subject-matter, when both (the plaintiff and the defendant) are absent; this rule applies to quadrupeds, to bipeds, and also to immovables. [K 389]

322 In all judicial acts concerning objects that are to be weighed, counted, or measured, one may have (the witness) speak even in the absence of the objects, but in no other cases than these. [K 390]

[1](1) The main possibility contemplated is, that the deposition of witnesses should take place in the presence of the plaintiff, the defendant, and the

subject-matter.
[2] (2) An additional possibility is (that it should take place) in the presence of the subject-matter only, namely when the parties cannot be produced. [3] And this restriction applies to quadrupeds, etc., only.
[4] (3) In case of gold, etc., however, the witnesses may even depose in the absence of the subject-matter. [5] Among these, 'an object that is to be weighed' = that which is to be estimated on a scale, e.g., gold, etc.; [6] 'an object that is to be counted' = cowries, etc.; [7] 'an object that is to be measured' = corn, etc. - [8] 'Judicial act' = legal procedure. [9] It thus means: in all legal procedures this is the only method.

[10] MANU:

323 In the morning (the judge), after being purified himself, shall ask the Twice-born people to deliver true evidence. They too, shall be purified, face eastward or northward, and stand close to gods or brāhmaṇas. [M 8.87]

324 The chief judge should question all witnesses while they are present in the court, in the presence of the plaintiff and the defendant, gently addressing them in the following terms: [M 8.79]

325 "Declare everything you know about how these people have mutually behaved with regard to this case; for you are a witness in it". [M 8.80]

326 When a witness speaks the truth in a deposition, he reaches the most magnificent worlds, and here he obtains an unsurpassed fame; such a speech is created by Brahman. [M 8.81]

327 When a witness speaks untruth in a deposition, he is tied by Varuṇa's fetters, powerless for

---

326 Worlds. MMdhā has an alternative explanation: loka = caste. In that case the sentence would mean: 'he will be born in a happy future life'.

327 Varuṇa's fetters. God Varuṇa is essentially known as a moral governor, whose wrath is roused by people's sins. To punish sinners he is said to bind them with his fetters, ensnaring the man who tells lies, passing by him who speaks the truth. The conception of Varuṇa's fetters has been explained in various ways. It may be based upon the tying up of the waters (Bergaigne), or on the fetters of night (Hillebrandt), or it may be a figurative application of the fetters of criminals to moral guilt (Macdonell) (cf. Macdonell, A.A. Vedic Mythology. Strassburg 1897. P. 26). The expression 'Varuṇa's fetters' has also been used as an equivalent for

a hundred existences; therefore a witness should speak the truth. [M 8.82]

328 By truth a witness is purified, by truth the sacred law prospers; therefore, witnesses of all castes should speak the truth. [M 8.83]

329 The soul itself is the witness of the soul, the soul is the refuge of the soul. Do not despise your soul, the highest witness of men. [M 8.84]

330 The sinners, indeed, think: "Nobody sees us here"; but the gods do see them, and so does their inner self. [M 8.85]

331 The sky, the earth, the waters, the heart, the moon, the sun, the fire, Yama, the wind, the night, both twilights, and the sacred law, know the conduct of all corporeal beings. [M 8.86]

[1] [M 8.82] (Notice the expression) śatamā jātīḥ = a hundred existences.

[2] YĀJÑAVALKYA:

332-333 One should make witnesses depose in the presence of the plaintiff and the defendant. He who delivers a false evidence reaches the same worlds as the perpetrators of sins and minor sins, incendiaries, and the murderers of women and children. [Y 2.73,74]

[1] BṚHASPATI:

334 Judges who are well versed in the prescriptions of the sacred law should instruct (the witnesses) by means of words which praise truth and drive away falsehood. [B 5.32]

335 Whatever merit has been acquired from birth to death, all that is destroyed by praising falsehood. [B 5.33]

336 A false judge, a false witness, and the slayer of a brāhmaṇa, are said to be equal (in guilt); the slayer of an embryo and the destroyer of wealth are not considered to be more guilty than them. [B 5.34]

337 Knowing this, a witness should deliver his

---

dropsy, a disease specially attributed to the influence of Varuṇa as a punishment for sin. A man afflicted with dropsy is often called varuṇagṛhīta = 'seized by Varuṇa'. Cf. MKVI vol.II,p.245.

speech according to reality; by doing so he obtains fame in this world and a prosperous passage hereafter. [B 5.35]

[1] With regard to the deposition of witnesses, VIṢṆU and NĀRADA say:

338 If a thousand horse-sacrifices and truth are weighed in a balance, truth alone excels the thousand horse-sacrifices. [Vi 8.36 = N 1.211]

[1] NĀRADA:

339 One should thoroughly frighten them by means of the ancient words of the sacred law, which show the majesty of truth and which blame falsehood. [N 1.200]

340 He who delivers false evidence shall often have to approach his enemies, naked, sent away at their doors, tormented by hunger. [N 1.201]

341 He who speaks untruth shall spend his nights in the same way as a superseded wife, as one defeated in gambling, and as one whose body is afflicted by a heavy burden. [N 1.203]

342 If a witness while delivering his evidence behaves unsteadily like a cow's ear, he fastens a thousand fetters of Varuṇa to his soul. [N 1.204]

343 After the lapse of a hundred years one fetter is removed; at this rate he gradually gets loose from this bondage completely. [N 1.205]

344 They call truth the only unparalleled means of clearing the soul; it is the ladder to heaven just as a boat (is the connection) between both shores. [N 1.210]

345 A tank is better than a hundred wells, a vow is better than a hundred tanks, a son is better than a hundred vows, truth is better than a hundred sons. [N 1.212]

346 The earth bears (its products) by truth, by truth the sun rises, by truth the wind blows, by truth the waters flow. [N 1.213]

347 It has been decided, that truth only is the highest abode, truth only is the highest austerity, truth only is the highest sacred obligation of men. [N 1.214]

348 The gods are said to be truth completely,

whereas men are falsehood; in this very world he is a god whose mind is fixed on truth. [N 1.215]

349 There is no higher sacred law than truth, no greater sin than falsehood; therefore one should speak truth only, especially while fulfilling the sacred duty of a witness. [N 1.226]

350 With the approbation of the ancients two verses have been pronounced on this subject; on hearing these, wise men should speak truth only in this world: [N ?]

351 "If a lowhearted person alters his speech in the affairs of another man, what sin would he not be up to in an affair of his own, fearless of hell? [N 1.227]

352 All matters, indeed, are connected with speech, have their root in speech, and spring forth from speech; a man who steals such speech would steal anything". [N 1.228]

[1][N 1.203] 'A superseded wife' = one who has just gained a co-wife. - [2][N 1.204] 'One who behaves unsteadily like a cow's ear' means: one who does not speak consistently while taking part in a legal procedure.

[3]BAUDHĀYANA:

353-354 A witness who delivers false evidence kills three fathers and three grandfathers, seven (generations) born and unborn. [Bau 1.19.13,14]

[1](One obtains) seven born (generations by taking three grandfathers, three fathers, and) the person himself.

355 When a witness delivers false evidence, he kills five in case of falsehood about cattle, ten in case of falsehood about cows, he kills a hundred in case of falsehood about horses, a thousand in case of falsehood about men. He kills the born and the unborn if he speaks fal-

---

352 <u>A man who steals speech</u>. To account for the fact that speaking untruth is referred to by the expression of 'stealing speech' Jolly (N tr.,p.95) rightly observes that "theft" is a very wide term under the Hindu Law. As early as M it includes forgery of documents and coins, unlawful sales, and dishonesty generally. Cf. especially the description of the various kinds of "theft" in Dvi 80-153, one of which is the false deposition of witnesses (Dvi 106-07).

sely about gold, he kills everything in case of falsehood about land. [Bau 1.19.15]

[1] THE OATHS OF WITNESSES.

[2] ŚAṄKHA-LIKHITA:

356 Witnesses should swear by gold, silver, a cow, corn, Sūrya, Agni, an elephant's shoulder, a horse's back, the box of a chariot, or wea-
357 pons, or by their son or grandson. One should select different (oaths) according to their caste, in the presence of gods, brāhmaṇas, and the king. [ŚL ?]

[1] 'By gold, etc.' means: one should make them swear by touching gold, etc. - [2] And 'by their son or grandson' means: in a minor case one should make them swear by touching the head of their son or grandson. - [3] 'According to their caste' means: one should make them swear by touching that very object which in ANOTHER SMṚTI has been prescribed for an oath by people of their caste.

[4] NĀRADA:

358 A brāhmaṇa should be forced to speak by truth, a kṣatriya by his chariot or his weapon, a vaiśya by his cows, seeds, or gold, a śūdra by all kinds of sins. [N 1.199]

[1] 'Should be forced to speak' means: should be forced to swear. - [2] 'A brāhmaṇa' refers to a brāhmaṇa of a lower standing, [3] since GAUTAMA has forbidden (the administration of) an oath on one of higher standing. [4] Thus GAUTAMA says:

359-360 The 'act of truth' is performed by means of one oath. This only should be administered to non-brāhmaṇas in an assembly of brāhmaṇas. [G 13.13-14]

[1] 'The act of truth' = enforcing the truth.

357.3 In ANOTHER SMṚTI. In his ed. of Vka (130) K.V.Rangasvami Aiyangar explains the word Smṛtyantare as a reference to a verse on the subject which in GMka has been quoted under the name Smṛtyantaram. As a matter of fact, Vāc (after Vka 130) wants to refer to N 1.199 (= M 8.113, Vyci 687) which he quotes immediately after this in support of his statement (cf. YVmi 2.73-75, where the same idea has been unambiguously worded).

[2]Objection. Since G 13.13-14 prescribes a single oath also for witnesses who are not brāhmaṇas, it is inconsistent with the prescription of different oaths in such texts as: 'A kṣatriya by his chariot or his weapon', etc. (N 1.199).
[3]Refutation. This objection should not be raised, for in the PĀRIJĀTA the text of GAUTAMA has been restricted as referring to virtuous witnesses only.

[4]MANU and NĀRADA:

361 One should question a brāhmaṇa, saying: "Speak" ; a kṣatriya, saying: "Speak the truth"; a vaiśya by his cows, seeds, or gold; a śūdra by all kinds of sins. [M 8.88 = NQ 5.5]

362 He who speaks falsely partakes of the worlds of the murderers of brāhmaṇas, of those who kill women or children, of him who betrays his friends, and of him who shows himself ungrateful. [M 8.89 = NQ 5.6]

363 O blessed one, whatever merit you have accumulated from your birth onward goes to the dogs if you depose falsely. [M 8.90 = NQ 5.7]

364 O virtuous one, you think of yourself: "I am alone". But this sage who sees merit and sin is always present in your heart. [M 8.91 = NQ 5.8]

365 When you are not at discord with god Yama, son of Vivasvat, who stays in your heart, you should not go to the Ganges nor to the Kurus. [M 8.92 = NQ 5.9]

[1][M 8.92] 'Yama' = who creates confinement [saṃyamana]. - [2] 'Son of Vivasvat' = son of the Sun. - [3] 'When you are not at discord' = when you are not in disagreement.

[4]Further:

366 He who speaks falsely shall have to go to the house of his enemies as a beggar, naked, bald,

---

364 Sage. It is very likely that Vāc followed this usual interpretation of the word muni (cf. MSnā, MCrā, MKlū, MRvā, MRca), but it should be kept in mind that another interpretation has also been given, viz. muni = maunin = 'silent' (MMdhā, MNda).

365 The Ganges and Kurukṣetra are said to be equally powerful as to purifying sinners. The only difference is that 'the Ganges is a river that purifies but in Kurukṣetra it is the land itself that purifies' (MMdhā 8.92). For the Ganges and Kurukṣetra as places of pilgrimage, cf. [HH vol.IV, p.585-96, 680-86].

carrying a pot, tormented by hunger and thirst, and blind. [M 8.93]

367 When a sinful person is questioned in a decision of the sacred law and he answers the question falsely, he goes down to hell, headlong, in thick darkness. [M 8.94]

368 When a man, who enters the court, utters falsehood or something of which he has no personal knowledge, he is like a blind man who heedlessly eats fish together with the bones. [M 8.95]

369 The gods do not know a better man in this world than the one about whose statements his inner self who knows (truth and falsehood) has no doubts. [M 8.96]

[1]NĀRADA:

370 Listen, o excellent one, how many relatives a witness kills by deposing falsely in certain matters, namely: [N 1.207]

371 He kills five in case of falsehood about cattle, ten in case of falsehood about cows, he kills a hundred in case of falsehood about horses, a thousand in case of falsehood about men. [N 1.208]

372 He kills the born and the unborn if he deposes falsely about gold, he kills everything in case of falsehood about land; therefore, do not depose falsely about land. [N 1.209]

[1]MANU:

373 (A false deposition) about waters, about carnal enjoyment of women, and in cases concerning gems of all sorts whether born of the waters or of the mines, is declared to be equal to (a false deposition) about land. [M 8.100]

374 (A false deposition) about honey and ghee is equal to one about cattle, one about a vehicle is equal to the one about horses, one about silver, clothes, corn, or brahman, is equal to

---

370 Kills. Various explanations have been given for the concept of 'killing' relatives by speaking untruth: (1) 'causes to fall into hell' (MMdhā 8.97; MGrā 8.97; MKlū 8.97; MSnā 8.97); (2) 'causes to fall from heaven and to be reborn in the wombs of animals' (MRvā 8.97); (3) 'incurs a guilt as great as if he had killed them' (MMdhā and MKlū 8.99).

the one about cows. [M 8.100']

375 Think of all these vices connected with a false deposition; speak truth only, straightforward, according to what you heard or saw! [M 8.101]

[1][M 8.95] 'Falsehood' = in which a case is stated differently from what it actually is.
[2][N 1.208] 'Five': according to the PĀRIJĀTA these five are one's mother, one's father, one's wife, one's offspring, and oneself.
[3][M 8.100] 'Waters' = lakes, etc. - [4]('Carnal enjoyment of women': the two coordinate substantives maithune bhoge, lit. 'intercourse, sexual enjoyment', should be understood as) sexual enjoyment in the form of intercourse with women. - [5](Notice the term) abja = pearls growing in the waters, i.e., muktās, etc.
[6][M 8.100'] 'Brahman' = the Veda.

[7](In case of a false deposition) about other objects (not mentioned in the verses from N 1.208 to M 8.101) the detrimental consequences mentioned in general apply.

[8]NĀRADA:

376 Speak truth and avoid falsehood; by truth you will go to heaven, by speaking untruth you will enter a very frightful hell. [N 1.216]

377 And in the hells the cruel, strong servants of Yama will cut out your tongue and constantly beat you with swords. [N 1.217]

378 They will come and pierce you with spears, while you are lamenting helplessly; they will throw you down headlong and cast you in a fire and in pools. [N 1.218]

379 After you have experienced these horrible tortures of hell for a long time, you will come back in this world in the detestable wombs of vultures, crows, etc. [N 1.219]

380 Knowing these vices connected with falsehood and the great virtues connected with truth, speak truth, rescue yourself, do not throw yourself down deliberately! [N 1.220]

381 Relatives, friends, goods however great they may be, none of these can save you when you are plunging into deep darkness. [N 1.221]

382 The ancestors depend upon a son who has become

a witness: "Will he lead us up (to heaven) or will he throw us down?" [1.222]

383 Truth is the soul of a man, everything depends on truth; by all means direct yourself by your own (effort) to bliss only. [N 1.223]

384 Whatever lies between the night you were born and the night you will die would be in vain if you depose falsely. [N 1.224]

[1] YĀJÑAVALKYA:

385 Whatever meritorious acts you have performed in hundreds of other existences, know that all of them are to the credit of the person whom you defeat falsely. [Y 2.75]

[1] MANU:

386 When brāhmaṇas act as cowherds, merchants, artizans, actors, servants, or usurers, they should be treated like śūdras. [M 8.102]

387 If people abandon their own obligations and live on food procured by others, thus aspiring to the status of Twice-born men, they should also be treated like śūdras. [M 8.102']

[1] That means: one should make them swear the oath prescribed for śūdras.

[2] RULES FOR THE DEPOSITION OF WITNESSES.

[3] About this KĀTYĀYANA says:

388 Witnesses should depose inside the court and not elsewhere; this rule applies to all cases of testimony except with regard to immovables. [K 387]

389 When living beings have been killed, one should make (the witnesses) depose in the presence of the corpse; in the absence of the latter, in the presence of a token; one should not have them depose in any other way. [K 391]

390 If anything has been fully seen with an unobstructed mind, this is said to be a perceptible fact; the witness should depose this as

---

388 Except with regard to immovables. Here the evidence may be taken on the property itself (cf. K 389, Vyci 321).

a testimony. [K ?]
1[K 391] 'A token' = a token of the corpse, e.g., a bone, a hair, etc.

2With regard to the case where a witness cannot be produced, KĀTYĀYANA says:

391 When participants in a lawsuit residing abroad cannot possibly appear, one should have them depose in the form of a document conveyed by persons who know the three Vedas. [K 352]

1That means: in this case the decision should be made by such means as a document in accordance with (the requirements of) the sacred law, which reports the statements of the witnesses.

2BṚHASPATI:

392 After removing his shoes and his turban he should raise his right hand, and he should speak the truth after having laid hold of gold, cowdung, or darbha-grass. [B 5.43]

1In this case the raising of the right hand is either for the purpose of attentiveness or it serves a spiritual purpose.

2GAUTAMA:

393 They should not speak if they are questioned

392.1 For the purpose of attentiveness. This translation cannot be more than a guess of Vāc's intention. Most nibandhas do not give any comment at all. The earliest known interpretation is Sca 207: "The expression 'he should raise his right hand' means: he should put on his garment like a sacred thread". Here the word avadhāna does not occur. Then follow Vca 129, Vyci, and Vsau 53 with nearly identical remarks: "According to SOME the raising of the right hand is for the sake of avadhāna, according to OTHERS it serves a spiritual purpose". The connecting link between both ways of interpretation, which might not be obvious at first sight, has been given by Svi 157. In this text the explanation of Sca 207 has been repeated, but in support of it the author has added a text from the Śruti. The latter text is also found quoted in BauGsvā 1.8.5, after it has been described how the sacred thread should be fixed in the yajñopavīta fashion (as against prācīnāvīta and nivīta, cf. also M 2.63). One should proceed as follows. First one should raise the right arm above the height of the navel, then one should put the right arm into (avadhā.) the upavīta, bend the head lower than the right arm, put the head into the upavīta, and raise both the head and the arm upward, to the effect that the sacred thread hangs down from the left shoulder on the right side. For similar texts, cf. [HH vol.II, p.287-88, note 673]. It is not impossible that the mere word avadhāna in Vyci is intended to summarize this whole ceremony (to be done with the garment instead of the sacred thread).

unassembled. [G 13.6]
[1]'Unassembled' = not joined.

[2]KĀTYĀYANA:

394 If anything has been seen by the witnesses collectively, they should depose in the same way; but if different acts (have been seen) separately, they should depose one by one. [K 394]

395 If an act has come to the knowledge of witnesses at different times, one should make them depose one by one at different times. Thus Bhṛgu. [K 395]

396 When persons have come to the place where the lawsuit (is being decided), and they are neither questioned nor appointed as witnesses, they should not exert themselves impartially to deliver true evidence. [K ?]

[1][K 394] (Notice the expression) naikakārya = different acts.

[2]Further:

397 One should accept their speech when it has been uttered naturally and free from defects; but once the witnesses have (so) deposed, the king should not question them again and again. [K 392]

[1] TESTING WITNESSES.

[2]About this BṚHASPATI says:

398 When (the witnesses) appear, they should be tested in regard to their sound, colour, gestures, etc. [B 5.43ab]

[1]About this ŚAṄKHA-LIKHITA say:

399 Here the characteristics of corrupt people should be ascertained by wise men on the basis of their conversancy with the prescriptions (of the sacred law). [ŚL ?]

[1]These characteristics are as follows:

400 He looks obliquely, he glances all around, he suddenly releases urine and excrement, he goes from one place to the other, he squeezes one

hand with the other, he pares his nails, the colour of his face changes, his forehead perspires, he does not return (a salutation by) his eye or his speech, he suddenly starts speaking or praising, again and again he drives away another person, he looks outside, he seizes a weapon, he displays sorrow, he scratches in the earth, he swings his head back and forth, he distorts his lips, he licks the corners of his mouth, he is not surprised (when told of) even great events, he contracts his eyebrows, he laughs, he meditates silently, he converses in such a way that his later statements contradict the preceding ones. All these are the characteristics of corrupt people and of an irritated king, who are beyond their normal disposition. [ŚL ?]

[1] The idea is, that the unnatural tone, etc., are bases for the assumption of dishonesty.

[2] THE PUNISHMENT OF FALSE WITNESSES.

[3] About this MANU says:

401 (For false evidence) out of greed the punishment should be a thousand; out of folly, however, the first amercement; out of fear, two middlemost punishments; out of friendship, four times the first. [M 8.120]

402 Out of passion, ten times the first; out of anger, three times the next; out of ignorance, two full hundreds; and out of childishness, a hundred only. [M 8.121]

403 These are said to be the punishments which the wise have prescribed for false evidence, in order that the sacred law should not be deviated from and for restraining a breach of the sacred law. [M 8.122]

404 A king who acts in accordance with the sacred

---

401 The first amercement. Hindu Law distinguishes three degrees of amercement, the first or lowest amercement, the middlemost amercement, and the highest amercement. Although this subdivision has been generally accepted in all Smṛtis, the figures corresponding to each subdivision greatly vary. The system of M (cf. M 8.138 = Vi 4.14) applied here is as follows: first amercement = 250 paṇas; middlemost amercement = 500 paṇas; highest amercement = 1000 paṇas.

law should punish and banish people of the three (lower) castes when they deliver false evidence; a brāhmaṇa, however, should be banished (only). [M 8.123]

1[M 8.120] 'A thousand' should be supplemented as follows: (a thousand) paṇas. - 2'Out of folly' = out of carelessness. - 3'The first amercement' = two hundred and fifty paṇas. - 4'Two middlemost (punishments)' means: (two middlemost) amercements, i.e., a thousand paṇas. - 5'Four times the first' = a thousand paṇas.
6[M 8.121] 'Out of passion' = for such motives as affection towards the wife of the person on whose behalf he makes his statements, etc. - 7'Ten times the first' = twenty five hundred. - 8'Three times the next' = (the next one) compared to the lowest is the middlemost amercement, i.e., five hundred paṇas, and here this is to be taken thrice. Thus, it means: fifteen hundred. - 9'Out of ignorance' = because of a momentarily error. - 10'Childishness' here is the sexual desire obtained with the appearance of puberty.
11[M 8.123] 'A brāhmaṇa, however'. The word 'however' limits the punishment of a brāhmaṇa. Thus, it means: his punishment consists in banishment from the country only (without any other punishment).

12YĀJÑAVALKYA:

405 False witnesses should be punished one by one with a punishment twice as high as (the subject-matter of) the lawsuit; of a brāhmaṇa it is said that he should be banished. [Y 2.81]

1This, however, applies when it is impossible to decide which of the many causes such as greed, etc., (was at work).

2Further:

406 If a man who has related evidence to others denies it, being covered with darkness, he must be forced to pay eight times the punishment; a brāhmaṇa, however, should be banished. [Y 2.82]

1(Notice the passive participle) *śrāvita* (instead

404.4-5 **Thousand ... thousand**. The fact that the same figure has been expressed in various ways (two middlemost amercements, four times the first) is due to metrical considerations (MMdhā 8.120).

of the active śrāvitavān) = has related. - [2] 'Denies' = conceals it at the time when he should depose.

[3] VIṢṆU:

407 For false witnesses, confiscation of their entire property. [Vi 5.175]

[1] This applies to those who make a habit of it.

[2] NĀRADA:

408 A witness should be forced to pay the debt and a fine, if within seven days from his deposition he is seen to be afflicted with an illness, fire, or the death of a relative. [NQ 5.11]

[1] The diseases meant here are as follows:

409 The diseases due to fate of mankind are: feverish diarrhoea, blisters, pain in the deep-set bones, an eye-disease, a throat-disease, madness, a head-disease, and a fracture of the arm. [K 458]

[1-2] Here only serious diseases etc., should be taken into consideration. [3] This will be explained later.

[4] BṚHASPATI:

410 If a witness on being summoned does not appear within the lapse of three fortnights except if he suffers from an illness, he should be forced to pay the debt and a fine. [B 5.45]

411 When uninvited witnesses speak the truth and invited witnesses do not speak, they should be confined, censured, and punished according to the sacred law. [B 5.47]

[1] [B 5.45] The word 'illness' refers to (any) insurmountable obstacle. - [2] The word 'debt' refers to the subject-matter of a lawsuit in general.

[3] KĀTYĀYANA:

412 When (the content of) the testimony is dubious, a delay should be granted to the witnesses to have them understand the transaction correctly; when it is clear, one should discuss im-

---

409.3 Later. This disease must be a serious one, and at the same time it should afflict the particular individual only. Cf. 699.2; 706.2.

mediately. [K 341]

[1]That means: when (the witnesses) do not remember the evidence to be deposed, a delay should be granted to them to recall it to their memory; [2] but when they do remember, they should depose immediately.

[3]KĀTYĀYANA:

413 Let false witnesses spend an era in the *avīci*-hell! [K ?]

[1]GAUTAMA:

414 If they do not speak, they are sinful; if they
415 speak the truth, they go to heaven; in the opposite case they go to hell. [G 13.7,8]

[1]'In the opposite case' = if they utter untruth.

[2]EXCEPTION TO (THE OBLIGATION TO SPEAK) THE TRUTH.

[3]About this MANU says:

416 When speaking the truth would result in the death of a śūdra, vaiśya, kṣatriya, or brāhmaṇa, then untruth may be spoken; this is better than truth. [M 8.104]

[1]'Speaking the truth' = a true declaration.

[2]GAUTAMA:

417 It is not wrong to utter untruth if a life de-
418 pends on it, except the life of a sinner. [G 13.24,25]

[1]'A sinner' = a thief, etc.

[2]YĀJÑAVALKYA:

419 If (by speaking the truth) a member of the (four) castes would be killed, then the witness may utter untruth. For the expiation of this (sin) Twice-born people should perform an

----

413 The *avīci*-hell. This is one of the many hells known to Hindu authors. *Avīci* (or *Mahāvīci*) is the hell "where one is submerged in surging waves". Cf. [HH vol. IV, p.162].

415 If they speak the truth. Because of the word 'speak' this result of going to hell only applies to the witnesses but not to the king who is responsible for the decision about the evidence delivered (GMka 13.8).

oblation to Sarasvatī.

[1] MANU:

420 They should offer to Sarasvatī with oblations consecrated to the goddess of speech, thus performing the highest expiation of this sin of untruth. [M 8.105]

421 Or according to the rules one should also offer ghee in the fire together with kuṣmāṇḍa-verses, or with the Ṛg-verse to Varuṇa: "Untie, o Varuṇa, our highest fetter", or with the three Ṛg-verses to the Waters. [M 8.106]

1 [M 8.105] 'Oblation' = rice which is cooked in steam without being put in water.
2 [M 8.106] 'With (the three Ṛg-verses) to the Waters' = with the verses Ṛgveda 10.9.1-3.

[3] VIṢṆU:

422 In order to expiate that sin one should offer
423 with kuṣmāṇḍī-verses. A śūdra, however, should

----

421 Kuṣmāṇḍa-verses. Kūṣmāṇḍī is the name given to three verses from the Vājasaneyisaṃhitā (20.14-16) by the commentator MAHĪDHARA (cf.Weber,A. The White Yajurveda. Part I. The Vājasaneyi-Saṃhitā. Berlin London 1852.P.641). They have been translated as follows: "14. Gods, Deities, whatever fault of ours have stirred the wrath of Gods, May Agni set me free from that iniquity and all distress. 15. If in day-time or at night we have committed acts of sin, May Vāyu set me free... 16. If when awake or in our sleep we have committed acts of sin, May Sūrya set me free..." (Griffith,R.T.H. The Texts of the White Yajurveda. London 1899). For the Kūṣmāṇḍa Homa, which is considered to be the best remover of sin, cf. the Taittirīyāraṇyaka (ed. Mitra,R. Calcutta 1872.P.199-234, and Introduction p.20-21).

421 The Ṛg-verses to Varuṇa. Ṛgveda 1.24.15, which is referred to in M 8.106, can be translated as follows: "Untie, o Varuṇa, our highest fetter, untie the lowest one, loosen the middle one; then, o son of Aditi, in your service we will be sinless before Aditi". Cf. Varuṇa's fetters, note 327. MMdhā rightly adds: The words 'to Varuṇa' have been added in order to exclude the other verse beginning with ut (viz. 8.64.1).

421.2 The three Ṛg-verses to the Waters. Strictly speaking Vāc (and other commentators) correctly explain this as a reference to the first triplet (tryṛca) of Ṛgveda 10.9, which can be translated as follows (after Geldner): "1. Waters, indeed, do give refreshment, give us strength in order that we might behold great delight. 2. Let us partake of the most auspicious essence which is in you, like loving mothers (let partake their children of their milk). 3. Let us approach him for whose house you refresh us and hearten us up, you Waters!" Actually, the author of M 8.106 must also have had in mind the other stanzas of the hymn which are even more directly concerned with the subject of speaking untruth and making false oaths (stanza 8). Cf. Geldner,K.F. Der Rig-Veda. In: Harvard Oriental Series, 33-35. Cambridge (U.S.A.) 1951. Vol.III,p.131-32.

give one day's food to ten cows. [Vi 8.16,17]
[1]'That sin' = the sin created by such a false declaration. - [2]'Should offer' should be supplemented (with its grammatical subject): a Twice-born man. - [3]'One day's (food)' = food for one day.

[4]THE VALID DEPOSITION OF WITNESSES.

[5]About this VYĀSA says:

424 When the deposition does not fall short (of the party's statement) as to time, shape, age, matter, place, caste, and quantity, it proves the probandum to be true. [Vy 1.109]

[1]That means: as far as the party has made his statement properly, he attains victory if his witnesses depose (accordingly).

[2]BṚHASPATI:

425 The party whose witnesses confirm his entire statement, attains victory; otherwise, however, he would not reach the object of the probandum. [B 5.44]

[1]'Otherwise' = if they do not confirm his entire statement. [2]This is possible in two ways: (A) no declaration at all, or (B) an inapposite declaration. [3]The latter again is of four types: (B1) a declaration of a lesser amount, (B2) a declaration of a larger amount, (B3) a declaration of ignorance, (B4) a declaration of the opposite viewpoint.

[4]In none of these cases is the probandum proved to be true. [5]In the first case and in the fourth, however, further evidence should be collected, [6]and one must not decide upon his defeat merely on the basis (of the original evidence), [7] since the doubt which has started the investigation has not been removed. [8]Objection. This is inconsistent with the writings

---

425.8-10 Vāc has stated that in the case of a declaration of ignorance further evidence should be collected before deciding upon the defeat of the party. Some people might raise the objection that this rule is not correct, since in Pdī it has been said that in this case the party is considered defeated immediately. Vāc's refutation of this objection is as follows. Pdī only says that in the case of an invalid deposition further evidence should be collected. This is a very general term, and it also includes cases like this. Suppose a plaintiff who claims a hundred

of the PRADĪPA, where it has been said that if (a witness) states: "I do not know", his party is simply defeated.
[9]Refutation. The author of the PRADĪPA says, that in the case of an invalid deposition further evidence should be collected, since in that case the doubt continues; and this statement is often applicable even to a deposition where there is no ignorance. [10]How, then, can he be propounding defeat in the case of a declaration of ignorance, since (a declaration of ignorance too, is made) in view of a certain content precisely corresponding to the witness' knowledge?

[11]As to the collection of further evidence in the second and third cases, the text N 1.234 will be quoted for this.

[12]Consequently, in the fifth case only is the defeat inevitable. [13]About this very point VIṢṆU says:

426 That party attains victory whose witnesses confirm his statement to be true; if they say otherwise, his defeat is obvious. [Vi 8.38]

[1]'If they say otherwise' [anyathā-vādinaḥ] means: if

---

coins, whereas his witness says that he knows of fifty being due. In this case, where the witness is not ignorant of the transaction but deposes the amount which precisely corresponds to his knowledge, PdĪ allows the collection of further evidence. A deposition of ignorance is nothing but a special case of the former example. The only difference is that, here, the witness declares: "I do not know of anything being due". Instead of his knowledge extending as far as fifty coins, it is now reduced to nothing, but in both cases he offers a deposition 'precisely corresponding to his knowledge'. Consequently, there is no reason to allow further evidence to be collected in the former case, and to declare the party defeated in the latter.

426.1-6 This argumentation serves the following purpose. In 425.12 Vāc has maintained that in only one case the party should be immediately considered defeated, viz. when his witnesses depose the opposite of his own statement. In support of this point of view Vāc quotes Vi 8.38. The present argumentation is intended to prove that Vi 8.38 actually applies to the above case, and this proof is the more necessary since it would also be possible to interpret Vi 8.38 differently, to the effect that it would not apply to this case and, therefore, that it would not be fit to be quoted in support of Vāc's statement of 425.12. The expression anyathāvādinaḥ in the latter half of Vi 8.38 can be read either as one compound or as two separate words. Acc. to Vāc the former reading should be preferred, and it should be interpreted as said in 426.1. His arguments are as follows. (1) The two half-verses are intended to express two opposite possibilities. The former half stating the case of a party's witnesses confirming his words to be true, the latter half must refer to the case in which the witnesses declare the party's words to be untrue. (2) Etymologically anyathāvādin means: saying something to be wrong or untrue.

they say that his statement is untrue. [2]Arguments: (1) Inasmuch as in the former half (of the verse) the actual trueness of the statement is referred to, the word anyathā can only indicate its actual untrueness. [3](2) This interpretation is in accordance with the etymological meaning (of anyathāvādin). [4](3) (If anyathā meant 'differently', and) if (, accordingly,) the element vādinaḥ should be taken separately, it would be a pointless repetition of the idea expressed (in the former half). [5](4) Since the mere word anyathā would (, then,) require to be supplemented, it would be necessary to supply the verb 'if they behave', which would be unduly cumbersome. [6](5) This would amount to a split of this sentence thus characterized by supplementation.

[7]INVALID DEPOSITIONS.

[8]About this NĀRADA says:

427 When the witness comes to depose but does not make a relevant statement with regard to the points under consideration, his declaration

---

(3) If the other possible reading is preferred, viz. the one in which both words are taken separately, the latter half of the verse means: 'If the party's witnesses (behave) differently' (which applies to all cases except their saying: "His words are true", e.g. their making all kinds of other inapposite declarations, their not appearing, etc.). In that case vādinaḥ = 'the party's' is redundant, since the idea of 'the party' has already been expressed in the former half of the verse. For the idea of redundance or pointless repetition, cf. note 426.4. (4) In the latter interpretation the word anyathā cannot stand by itself, but it has to be supplemented by a verb: 'If the party's witnesses behave differently'. This affords another argument against the interpretation, inasmuch as an interpretation requiring a supplementation must be rejected if the sentence can be interpreted without the latter. It makes the interpretation unduly cumbersome (cf. note 179.8). (5) This interpretation would also amount to the error called a split of the sentence (cf. note 268.5). If the second half of the verse refers to the case in which 'they behave differently', due to the supplementation of the verb the sentence is no longer a syntactical unit, since the former half concerns the witnesses' saying the party's statement to be true, whereas the latter half refers to their behaving differently.

426.4 A pointless repetition of the idea expressed. Nsū 5.2.14 distinguishes between two kinds of repetition or tautology, one of words and one of ideas. NsūBhā gives the following examples: whereas in the first kind of repetition it would be said: "Speech is eternal, speech is eternal", the second kind would take the form: "Speech is non-eternal, speech is liable to destruction". 'Repetition' ranks among the 'Occasions for Reproof' (cf. note 90.3).

should be considered not made. [N 1.232]

[1]SOME say: When a litigant appoints a witness by such declaration as : "You owe me a hundred (coins) of gold, and this person knows about it", and when the latter does depose concerning the matter but fails as to the amount, then, leaving out the part of the matter from which the doubt has been removed by thîs deposition, further evidence should be collected for the part of the amount which has remained undecided.
[2]The traditional interpretation holds, that for the part of the latter too, further investigation is required.

[3]Further:

428 When a party's witnesses declare a lesser or also a larger amount, this should also be considered un-said; this is said to be the rule for witnesses. [N 1.234]

[1]That means: when the plaintiff claims a hundred (coins), it cannot possibly be maintained that his witness' declaration of a larger amount, in which the appropriation of hundred and fifty (coins) is referred to, should be considered valid evidence. [2]Indeed, the mental impression which is at the basis of recollection is in proportion to the degree of attention (paid to the transaction), [3]and this (higher degree of attention) can be expected from the plaintiff himself but not from his witness. [4]Consequently, it is impossible that the plaintiff would not remember the higher figure whereas his witness would remember it.
[5]A declaration of a larger amount cannot also serve the purpose of (more readily) proving the truthfulness of the statement made by the plaintiff, [6]since the plaintiff himself does not maintain that more has been appropriated.
[7]Nor can (the excess) refer to another case, [8]since the circumstances of place, time, etc., have been clearly stated.
[9]Conclusion. Inasmuch as there is no other alternative, it is evident, [10]that only one conclusion can be derived from the contradiction between (the witness' declaration of a larger amount and) the original statement of the plaintiff: the witness actually knows that an appropriation has taken place,

but he errs about the matter, the amount, etc., [11] and a declaration that rests upon an error cannot be a valid means of proof of the truth of either (party's) statement.

[12] Objection. Agreed that this is the case with a declaration of a larger amount, but how can it be like this in the case of a declaration of a lesser amount? [13] Why does the defendant not win the suit, for his statement that he did not appropriate a hundred (coins) is true, even when the (plaintiff's) witness declares that fifty have been appropriated? [14] Refutation. [15] In that case the defendant's statement did not really refer to the figure 'hundred'. [16] If this were so, it might turn out that (by denying the appropriation of a hundred) he admits an appropriation of less than a hundred, according to the maxim: "The statement of a limited negation results in the admission of the rest". [17] Actually, the statement: "I did not appropriate a hundred" must mean: [18] "At this place, etc., I did not appropriate anything". [19] Accordingly, since even in the case where (the plaintiff's witness) declares the appropriation of fifty it is ill-conceived to hold that either (party's) statement is made out to be true, in this case too, the words apply: [20] 'This should also be considered un-said'.

[21] In order to remove the doubt, in all these cases the decision should be made by means of further evidence, such as an ordeal, etc. [22] Argument: when a declaration, though made, does not remove the uncertainty, it is just as if it had not been made. [23] Consequently, the text N 1.234 means: victory and defeat are not ascertained on that basis only, but further evidence is necessary. [24] Thus it has been said (in N 1.232): [25] 'His declaration should be considered not made'.
[26] This is the way in which BHAVADEVA, the SMṚTISĀRA, etc., explain the text.

[27] THE NEW SCHOOL, however, [28] make the following distinction.
[29] (1) When witnesses do not make any declaration as to the quantity at all and when they make a declaration of a larger amount, further evidence is required concerning the entire statement. [30] For he who errs about the quantity might err about the object as well, [31] and, therefore, his declaration

as a whole cannot be accepted.
[32] (2) In the case of a declaration of a lesser amount (a) there is no reason why one should suspect the appropriation of fifty to be based on error etc., [33] and (b) one may suspect that the remaining (fifty) have not been declared through mere forgetfulness. [34] Because in a legal procedure that conforms to the sacred law sophistry etc., must be avoided, the deposition about the appropriation of fifty is accepted, since there is no contradiction, etc. Therefore, (as far as this part goes) the examination solves the case, [35] and since the rule that it is 'un-said' cannot be extended to this part also, one need not collect further evidence on this point.
[36]The distinction is to be drawn as follows: (1) as for the part which has been subtracted from the amount through the examination, no further evidence is required, since this would be useless; [37] (2) as for the part that exceeds the fifty purāṇas referred to by the witness, further investigation is necessary.

[38]As to the dictum of NĀRADA that the entire subject-matter of the lawsuit must be given as soon as only one part has been proved, viz.:

429 When a person who has been accused in connection with several objects denies all of them, and one part is proved, it is suitable that (the other parts) too, should be given, - [N ?]

[1]this, since (if explained otherwise) it would be inconsistent with several (other) texts, must be explained to refer to cases in which the appropriation of one object is invariably connected with the appropriation of the others. [2]E.g., when a thief has stolen a receptacle together with different objects (contained in it) of gold, etc., he should give back everything as soon as (the theft of) only part of it, i.e., any of the golden objects, etc., has been proved. [3] Thus, the words 'one part' refer to one part which is invariably connected (with the other parts). [4] Such explanation is necessary, for this text is based on a principle of equity.

[5]Another possible explanation would be, that (the text of NĀRADA) refers to a fine due to the king.

[6]Thus YĀJÑAVALKYA says:

430 When a lawsuit is attended with a wager, one should force the defeated party to pay the fine and his own wager, and the object itself to the creditor. [Y 2.18]

[1]That means: when there is a wager like this: "I will give everything as soon as only one part has been proved". [2] It is to be understood as follows: because of the words 'his own' one person should not pay the wager proposed by another.

[3]The MITĀKṢARĀ: When a witness declares a lesser or a larger amount, further evidence is necessary with regard to the object too.

[4]When a witness is questioned about the content of the (party's) statement, and he does not mention the content itself but something necessarily accompanied by it, even then the party in whose favour the deposition is made wins (the suit), [5] for the content of the party's statement can be proved by means of the inference provided by (the witness') declaration.

[6]Objection. This is not true, because the declaration of the witness does not mention the content itself.

[7]Refutation. Inasmuch as the SMṚTI-text:

431 That party wins the suit, whose witnesses confirm his own statement, [Vi 8.38ab]

[1]is based on a principle of equity, the word 'witnesses' (in it) is illustrative (of all other valid means of proof). Therefore, the text applies to the following case: a party wins the suit when the content of his statement is proved by whatever valid means of proof.

The MITĀKṢARĀ says: According to the text of KĀTYĀYANA:

432 In case of adultery, violence, or theft, the probandum is considered completely proved as soon as the deposition of the witnesses covers

---

431.1 By whatever valid means of proof. I.e., also by means of inference, which in the case under consideration has become possible because of the invariable concomitance of the object mentioned by the witnesses and the content of the party's statement.

part of its content, [K 397]
[1]the rule that everything must be given as soon as one part has been proved applies to theft, etc.

[2]When a witness _de auditu_ is questioned and says: "I have heard that fact", this fact is not thereby proved, [3] since word and fact are not invariably concomitant. [4] But when he ascertains the fact through a word which is a quasi-visual perception, the fact is thereby proved when he is a man of established competence who deposes the fact itself by means of a speech which is not marked by the stain of suspicion of unauthoritativeness. [5] But when there is such a stain, neither the witness nor his deposition should be accepted.

[6]As to the case in which the declarations of the witnesses questioned disagree, MANU says:

433 When witnesses disagree, the king should choose (to follow) the majority; when the two factions are equal in number, the better qualified witnesses; when they are equally well qualified (in both factions), the brāhmaṇas. [M 8.73]

[1]'Disagree' = the fact that they deliver declarations that deviate from those of other witnesses. [2]Thus, there is no disagreement also in the case of the declaration: "I do not know". [3] Reason: since this refers to the absence of knowledge, it does not touch upon the absence of the knowable object. [4]M 8.73cd means: when they are equal in number (in both factions), one should choose (to follow) those who are better qualified; when (both factions) are equal in this latterrespect, those who are of a higher caste. [5]The idea is, that when they are equal in all respects further evidence should be collected.

[6]NĀRADA:

434 In case of divergence among witnesses the majo-

432.3 The trueness of a fact cannot be derived from its declaration by a witness _de auditu_, since it is not just to accept the following inference: "This fact happened (_probandum_) since the witness has been told so (_probans_)". Acc. to the NAIYĀYIKAS, the _probans_ and the _probandum_ in this inference cannot be united in a _vyāpti_ (invariable concomitance), because they cannot stand the following double test: (1) whenever a fact is said to have happened, it did happen; (2) whenever a fact did not happen, it is not said so. Consequently, the inference is false.

rity is considered to be more authoritative; when they are equal in number (in both factions), the most honest ones should be chosen (to be followed); when these are equal, those with the best memory. [N 1.229]

[1]'Divergence' = the depositions of two people which are not free from mutual inconsistencies.

[2]YĀJÑAVALKYA:

435 When witnesses have delivered evidence and others who are better qualified or double in number nevertheless speak differently, the earlier witnesses are false. [Y 2.80]

[1]KĀTYĀYANA:

436 When the witnesses of the plaintiff have stated the case (in a particular way) and the defendant proves the case differently by means of more (witnesses) or (witnesses) of higher birth, the earlier witnesses are false. [K 408]

[1][Y 2.80 and K 408] 'False' = their depositions are unacceptable.

[2]Objection. How would it be suitable to choose (to follow) twice as many witnesses, etc., for this is inconsistent with the following text of KĀTYĀYANA:

437 When a person neglects a strong plea and relies on a weaker one, he cannot again refer to the stronger plea once victory has been awarded by the judges. [K 221]

[1-2]Refutation. Because of the qualification 'once victory has been awarded' this text refers to the period following upon the ascertainment of victory, [3]whereas the texts of YĀJÑAVALKYA, etc., in a general way refer to circumstances in which the victory has not been awarded yet.
[4][K 221] 'Neglects' means: does not allude to.
[5]Thus, although stronger evidence was not alluded to (before), it may be used as long as the doubt continues, even if it is alluded to after producing weaker evidence.
[6]That is the reason why the author of the RATNĀKARA writes by way of conclusion: Another strong piece of evidence may be accepted within a period of seven days, but it may not be accepted after that.

[7] NĀRADA:

438 Once a legal procedure has been decided, evidence becomes useless, unless the document or the witnesses have been referred to before. [NMā 1.62]

[1] 'Before' means: when a party hesitates to use a strong means of proof alluded to before, e.g., a witness, etc., because of such inconveniences as his remoteness, etc., and when the person who investigates the case does not take it into consideration under the false impression that it cannot possibly be produced, but attends to a weaker means of proof, then the stronger means of proof may be used again even if produced after the lapse of seven days. [2] This review of judgment originates from a defect (in the procedure), viz. that (the judge) is under the false impression that a strong means of proof cannot be made use of for the trial whereas it actually can. [3] Thus it has been said:

439 A review is possible for those who have been defeated by witnesses or judges on account of disqualification. [NMā 2.40ab]

[1] The same interpretation is also found in the PRADĪPA, etc.

- - - - -

(439) [2]SECTION B : D O C U M E N T S.

[3]About this BṚHASPATI says:

440 Since after the lapse of not more than six months confusion arises (through failure of men's memory), of old the Creator has created the letters of the alphabet which are entered on leaves. [B 6.2]

[1](DIFFERENT KINDS OF DOCUMENTS.)

NĀRADA:

441 Documents are said to be of two kinds, in one's own handwriting and in that of another person, without witnesses and with witnesses respectively. The validity of both depends on local usage. [N 1.135]

[1]That means: a document in one's own handwriting constitutes valid evidence even without requiring a witness in addition, but (a document) in another person's handwriting does require one.

[2]It is of six kinds, since one distinguishes a document of debt, purchase, partition, gift, legal ruling, and victory. [3]A document of gift too, is of two types, since one distinguishes whether it is issued by the king or not. [4]And, again, each of these six kinds is twofold, since one distinguishes

---

441.2 A document of legal ruling. This kind of document is not found in the classical subdivisions of documents. In modern Indian languages (Hindī, Marāṭhī, Bengālī, etc.) the term is used for "the written dictum of a Hindu lawyer" (WGJT, p.880); "in practice it was applied to the written extracts from the codes of law, stated as the opinions of the Hindu Law officers attached to the courts of justice" (Wilson, H.H. Sanskrit and English Dictionary. Calcutta [3]1874). The latter description refers to the institution of Paṇḍits being attached to the British courts in India. The use of the term by Vāc raises the question, which cannot be answered at the moment, whether his time also knew courts in which Hindu Law was administered by non-Hindus who required the written opinion of Hindu specialists. In the lexicon Trikāṇḍaśeṣa (A Collection of lexical texts, ed. Bābū Rāma with indexes by Vidyākara Miśra. Calcutta 1807) the word has been explained as paṭṭolikādi.

whether it is valid or not.

[5] YĀJÑAVALKYA:

442 A document written in one's own handwriting is considered valid evidence even without witnesses, in all cases except when it is made by force or fraud. [Y 2.89]

[1] 'In one's own handwriting' means: a document written by a person who is bound to prove the evidential validity of that document. - [2] 'Force' is illustrative of all defaults that make a document invalid, such as sickness, passion, hatred, fear, nonage, etc.

[3] About the second type, NĀRADA says:

443 All witnesses should in their own handwriting write down the name of their father, followed by the clause: "I am a witness in this case". [Y 2.87]

[1] About a patent, however, YĀJÑAVALKYA says:

444-445 When the king donates land or creates a *nibandha*, he should, for the information of future kings, order the preparation of a document either on cloth or on a copper-plate, marked with his own seal. [Y 1.318,319ab]

[1] *Nibandha* = what may be taken at fixed intervals in a mine, etc.

[2] The document of victory (= the certificate of the decree) has been explained before (cf. 191[3] -201[1]).

[3] (PROOF OF THE VALIDITY OF A DOCUMENT.)

When one suspects the validity of a document, (the doubt) must be removed by the person who acquired the document. [4] His son, however, must only rely upon

---

442.3 The second type. I.e., a document in another person's handwriting.

445.1 Nibandha. The meaning accepted by Vāc is a "fixed allowance granted by the Rāja or person in authority, to be received from the proceeds of a manufactory, mine, or estate" (WGJT, p.598). Cf. there, p.598-99, for other possible meanings of the word and its application in modern jurisprudence.

possession (of property) depending on the document but he should not produce the document (itself).
[5] Thus KĀTYĀYANA says:

446 Even when he is supported by possession the acquirer of the document must disprove its defects; his son is responsible for the defects in the possession but not for those of the document. [K 323]

[1] BṚHASPATI:

447 The acquirer should produce the document, but his son (may prove) possession only; when the defendant dies, his son too, should produce (the document). [B 6.39]

[1] B 6.39cd means: when the acquirer of the document has been put to the proof in order to ascertain the validity of the document, and when he dies without demonstrating it, his son should prove its validity.

[2] (VALIDITY OF DOCUMENTS.)

KĀTYĀYANA:

448 If the debtor does not point out a patent defect when he sees a document, the document becomes unchallengeable after a period of twenty years. [K 298]

449 When a person possesses an object on the authority of a document in the presence of a capable (opponent) for a period of twenty years, after that the document is (considered) free of defects. [K 299]

[1] INVALIDITY OF DOCUMENTS.

[2] About this VYĀSA says:

450 A document is not valid (1) if it has not been seen, (2) if it has not been heard of, (3) if the creditor or (4) the debtor has died, (5) if there is neither a pledge nor (6) a surety, and (7) if it was made up a long time ago. [Vy 1.69]

[1] That means: a document is not a valid means of proof when it is affected by one of the seven defects such as its not having been shown, etc.

[2]BṚHASPATI has the following exception to this rule:

451 The documents of madmen, senseless persons, children, persons who fled from their home out of fear of the king, timid persons, and people struck by fear, do not become invalid. [B 6.52]

[1]That means: the documents of madmen, etc., do not become invalid merely on account of their not havving been shown, etc.

- - - - -

(451) [2]SECTION C : P O S S E S S I O N.

[3](REQUIREMENTS OF VALID POSSESSION.)

About this VYĀSA says:

452 Possession is acceptable if it fulfils the following five requirements: if it is (1) supported by a title, (2) of long standing, (3) uninterrupted, (4) not claimed by others, and (5) in the presence of the defendant. [Vy 1.84]

[1] This should be supplemented as follows: (is acceptable) as a valid means of proof (of ownership).
[2] (1) ('Supported by a title':) a title is called āgama, since by it something 'comes to'[āgacchati] the party, it becomes his own. E.g., purchase, etc. Sāgama is (possession) supported by such (a title).
[3] (2) 'Of long standing' = (held for) a period not shorter than that mentioned in the Smṛtis.
[4] (3) 'Uninterrupted' = without intervals.
[5] (4) 'Not claimed by others' = free from the interference of disputes by others.
[6] (5) ('In the presence of the defendant' =) such possession where one or other of the defendant or the plaintiff is present.

[7] Objection. Requirement (1), according to which possession should be supported by a title, is pointless, [8] for possession is also a valid means of proof (of ownership) without a (title). [9] Thus NĀRADA says:

453 Whatever has been illegally possessed by his father and by the three generations before him cannot be taken away (from the possessor), since it has come to him through three generations one after the other. [N 1.91]

454 Whatever has been possessed before by three earlier generations even without a title cannot be taken away (from the possessor), since it has come to him through three generations one after the other. [N 1.93']

[1] VYĀSA:

455 Whatever has been possessed for a long time by three earlier generations without a title cannot be taken away (from the possessor), since it has come to him through three generations one after the other. [Vy 1.85]

[1]VYĀSA explains 'possession held for three generations' as follows:

456 When something has been possessed by one's great-grandfather, by the latter's son without him, and by (the possessor's) father without both of them, this is possession held for three generations. [Vy 1.83]

[1]Since the lifes of men are not of regular length, THE SAME AUTHOR defines possession held for one generation as follows:

457 When land is possessed for twenty years without being claimed by the owner, it is called possession held for one generation; when it is possessed twice as long, it is possession held for two generations; when it is possessed thrice as long, it is possession held for three generations; in this case a title is not required. [Vy 1.81]

[1]Refutation. It is not true that, thus, possession held for three generations is a valid means of proof (of ownership) even if it is not supported by a title, [2]since this would be inconsistent with other texts. [3]Thus VIṢṆU says:

458 If something has been enjoyed in the right way by means of possession supported by a title, it goes to the acquirer, but never to the person from whom it has been taken away. [Vi 5.185]

[1]'The acquirer' = the possessor. - [2]'The person from whom it has been taken away' = the owner of that property.

459 When one's father has possessed an object in accordance with the usage of possession according to the sacred law, after his death his son cannot be rebuked, for by means of this possession it has become his own. [Vi 5.186]

460 When land has been possessed by three generations according to the rules, in that case the fourth obtains it even without a title. [Vi 5.187]

[1][Vi 5.186] 'In accordance with the usage of possession' = the fact that it is uninterrupted, etc. [2][Vi 5.187] 'According to the rules' means: without the opposition of a capable man who resides in the neighbourhood, etc.

[3]YĀJÑAVALKYA:

461 Possession with a pure title becomes a valid means of proof (of ownership); possession with an impure title does not obtain validity. [Y ?]

[1]Also NĀRADA:

462 When one possesses a piece of property without a title even for many hundreds of years, the king should punish this sin with the punishment appropriate to a thief. [N 1.87]

[1]Objection. Verily, in this way there is an actual doubt due to the inconsistency (of these texts). [2]Refutation. [3]There is no such doubt, since their fields of application are different. [4]Indeed, the former group of texts are based on the assumption that the existence of a title is dubious, whereas the latter are based on the assumption that a title is certainly available. [5]Accordingly, the conclusion is as follows: in case of possession held for three generations possession is a valid means of proof (of ownership) even if the existence of the title is dubious, whereas in the other case it is so with a definite title only.

[6]YĀJÑAVALKYA:

463 If (the owner) looks on without saying anything when his land is being used by somebody else, it is lost [hāni] after twenty years; goods, after ten years. [Y 2.24]

[1]'Goods' = cows, etc.

[2]BṚHASPATI:

464 If one's possession is undisputed and uninter-

462.3 Their fields of application are different. Cf. note 10.3.

rupted for thirty years from the acquisition onward, he cannot be removed from it. [B 7.28]
[1] 'The acquisition' = the title such as purchase, etc.

[2] Objection. These very two texts (Y 2.24 and B 7.28) are mutually inconsistent: [3] (in the first one) a twenty years' possession is said to be a valid means of proof (of ownership), whereas actually (in the second one) the authoritativeness of a twenty years' possession is rejected.
[4] Refutation. There is no such inconsistency.
[5] (1) Because of the words 'If (the owner) looks on without saying anything' (in Y 2.24) possession for only twenty years is a valid means of proof (of ownership) when there is not even a mere contradictory word.
[6] (2) Since B 7.28 in which thirty years have been prescribed contains the expression 'undisputed', and since, thus, it is the meaning of the word 'disputed' = actual quarrel, injury, etc., that is excluded, a thirty years' possession is a valid means of proof for ownership of land even if there has been a disagreement by mere words.
[7] In this way both Y 2.24 and B 7.28 agree as follows. (1) For cows, etc., a quiet ten years' possession constitutes a valid means of proof (of ownership); (2) for land a similar twenty years' possession; (3) for land again, a thirty years' possession even if there has been some disturbance, as long as it did not amount to a violent quarrel, etc.

[8] (When, thus, a ten years', a twenty years', and a thirty years' possession are considered valid means of proof of ownership,) how, then, can it be said that the only valid means of proof is possession held for three generations?

464.6 The expression. Here the term śruti refers to the śruti-principle of interpretation, acc. to which the text under consideration is interpreted literally and independently from other texts. It is an accepted rule of interpretation that, whenever it is possible to apply the śruti-principle, no other principles of interpretation should be resorted to (cf. SMRI, p.71-72). In the present case the apparent inconsistency between Y 2.24 and B 7.28 can be explained away by means of a literal interpretation of the terms abruvataḥ and avighātinī.

[9] To this the RATNĀKARA replies as follows. [10](There is no difficulty, since) the said text (Y 2.24) does not want to maintain (that a twenty years' or a ten years' possession is) a valid means of proof of the possessor's ownership but of something else. [11]Indeed, Y 2.24 means that the owner of the cows, the land, etc., does not on account of that possession obtain a compensation from such a possessor. The same meaning should also be attached to the following text of NĀRADA:

465 If anybody is so foolish as to look on when his own goods are being openly used by other people, even while he is looking on possession brings them under the control (of the possessor). [N 1.78]

[1-2]The PRADĪPA, however, (replies to the same question as follows). [3] Y 2.24 refers to the case in which a pledge is incomplete because it is not used (by the mortgagee). [4]Therefore, when a mortgagee does not use the land etc. that has been pledged to him, and the mortgagor, after using it himself for a long time, gives it as a pledge to another person, then the latter mortgagee becomes the master of the land, etc., and not the previous one. [5]Accordingly, although there are also other texts like this:

466 In case of a pledge, acceptance of gifts, or purchase, the first act is the more valid one, [Y 2.23cd]

[1-2]nevertheless Y 2.24 (should not be rejected because it is inconsistent with Y 2.23cd, but it is equally valid inasmuch as it) contains an exception to them. [3] And since Y 2.24 has the value of an exception, it is the mortgage of the second (mortgagee) only that should be considered complete. [4](The author of the PRADĪPA) also explains in detail in this way.

464.11 Acc. to Vyra the usufructuary is bound to pay a compensation for the usufruct to the owner, for land up to the twentieth year, for other objects up to the tenth year. If the usufruct continues after the lapse of these periods, this compensation ceases, without the owner, therefore, losing his proprietary rights.

466.4 As it stands the text of this sentence is not very clear. It can only be guessed to mean that Vāc's rendering of the point of view of Pdī is a mere summary whereas in Pdī itself the point has been treated more exhaustively. It is not, however, inconceivable that the reading prapañco is corrupt, and that it replaces the name of some other work or author. In that case the reference to the point of view

[5]Another explanation (of the twenty years' or ten years' prescription mentioned in Y 2.24 as against that of three generations) is as follows. The word hāni refers to the case in which, the owner being neglectful, the doubt (to be removed) by the investigator is greatly reduced(, inasmuch as the owner's neglectfulness creates a presumption against him). [6]But hāni does not mean that he straight away loses the case(, for the doubt actually continues, being only reduced but not removed). [7]Under these circumstances there is no question of a review of judgment as is known from B 9.22c, etc., without a fine. [8]Therefore, the owner who suffers hāni of this kind is, nevertheless, entitled to a decision by means of further investigation.
[9]That is the reason why with regard to the text of VYĀSA:

467 Just as a cow disappears when it is neglected and left without a cowherd, in the same way in the course of time land is lost when it is used

---

of Pdī would be followed by the common expressions 'The same view has also been held by work X or author Y'. Besides, there is another reason to bring this sentence under suspicion. Whereas the whole passage 465.1-469.1 has been reproduced in Vpra 163, 466.4 is the only sentence missing in this long quot. Shall we conclude, either that the reading also presented some difficulty to MITRA MIŚRA who preferred not to include it, or that it was missing in the Ms used by him? - The occurrence of the same paragraph (465.1-469.1) in Vpra also raises another problem. From the text of Vyci it is not possible to decide as to where exactly the quot. from Pdī ends, for the usual final particle iti is missing. The text of Vpra 163, however, leaves no doubt that in MITRA MIŚRA's opinion the whole passage should be ascribed to Pdī. This solution of Vpra has not been followed in this ed., for the following reasons. (1) If the whole passage was taken from Pdī, this text would be found to have contained a reference to Vyra (468.1). This cannot be the case, for there are reasons to believe that Pdī has been written between A.D.1100 and 1150, whereas the author of Vyra did not live before the 14th century A.D. Cf.[HH vol.I,p.335 and 372]. (2) A comparison of Vyci and Vpra proves that all quott. from Pdī in the latter have been directly or indirectly copied from the former. Conclusion. MITRA MIŚRA has been misled by the omission of iti at the end of the quot. from Pdī in Vyci. Quite reasonably he has subdivided the paragraph on the texts on hāni in Vyci as follows: (1) the point of view of Vyra (464.9-465); (2) the point of view of Pdī (465.1-469.1); (3) Vāc's own interpretation. Actually the quot. from Pdī ends 466.4, and before giving his own interpretation Vāc also refers to another point of view of a commentator whose name he does not mention.

466.7 Under these circumstances. Hāni and hīna do not mean 'defeat' and 'defeated', but they only create a presumption to that effect. By way of comparison Vāc refers to the term hīna in B 9.22 (Vyci 741): if in this text hīna meant 'defeated', i.e., 'irrevocably defeated', a review of judgment would be out of place; there too, hīna must mean a mere presumption of defeat.

by others under the eyes (of the owner). [Vy 1.76]

468 When in a country in which the king is present land has been correctly used by others in this world for twenty years, it no longer belongs to him, [Vy 1.77]

[1]the RATNĀKARA also explains as follows: When one's land is being used by others regardless of the presence (of the owner), it is lost to him, i.e., it is not accepted to be his.
[2]Moreover, if a twenty years' possession would in itself be a valid means of proof of ownership, then through it the probandum would ipso facto be accepted to be true, and, consequently, this would impede the fact that the text of KĀTYĀYANA:

469 When the property of a capable person is possessed for twenty years on the basis of a document, this document becomes free of defects, [K 299]

[1]states possession (not to establish ownership directly, but only indirectly) to serve the purpose of removing the defects of the document.

[2]Actually, however, the smṛti-texts prescribing hāni are supplementary to the injunctions according to which the evidence (of one's title) should be guarded by all means. [3]Therefore, their real meaning is, that one should guard the evidence (of one's title) and not be careless about it.
[4]That is the reason why the KALPATARU treats the protection of the evidence of the title after mentioning the texts on hāni.

[5]YĀJÑAVALKYA:

470 Even a title is not valid if there is not at least some possession. [Y 2.27cd]

[1]As long as there is no possession, even though title may in fact exist, no one will believe that ownership persists.
[2]The author of the MITĀKṢARĀ says: That means:

469.3 In other words: "The text of Y and similar other texts ... were designed to point out the risk of indifference in asserting one's title to a property which is being enjoyed by another, and hence to impress upon the owner the duty of preserving with care the evidence of his title by asserting it in proper time". [NN, p.108]

when both parties act on the authority of their respective titles and when the priority and posteriority cannot be ascertained, then the title of the (party) who enjoys possession is more valid than that of the other (party).

[3] NĀRADA:

471 Even if there is a document and even if the witnesses are alive, especially for immovables nothing is firm which is not possessed. [N 1.77]

[1] 'Nothing is firm' means: it does not have a valid means of proof to establish ownership of it.

[2] Further:

472 Except when they belong to a woman or to the king, even pledges etc., are lost to their owners if they have been enjoyed openly for twice ten years. [N 1.82]

[1] 'Twice ten years' = twenty years. - [2] 'Except when they belong to a woman or to the king' = except for the property of a woman and the property of the king.

[3] MANU:

473 If the owner silently looks on when any of his property is being used in his presence for ten years, he does not deserve to possess it. [M 8.147]

[1] 'Ten years' refers to property other than land.

[2] GAUTAMA:

474 When the property of persons who are neither senseless nor minors is used by others in their presence for ten years, it goes to the possessor. [G 12.34]

[1] 'Senseless' = idiot. - [2] 'Minor' = a person less than sixteen years old, according to the text:

475 It is said that a boy up to his sixteenth year should be known as a minor. [N 1.35cd]

[1-2] In the same way the RATNĀKARA etc., say: It is known that in general the property of a capable person, if it has been used by another in his presence, goes to the possessor.

[3] MANU:

476 The redemption of both a pledge and an upanidhi may not be delayed; both of them would have to be left if they remained outstanding for a long time. [M 8.145]

[1]Ādhi = an ordinary pledge. - [2]Upanidhi, however, is an object that has been handed over (to the possessor) out of friendship, to be used. E.g., a field, etc. But it does not refer to the kind of upanidhi defined in Y 2.65, [3]since this cannot be used. - [4]'May not be delayed' means: at the time of their redemption they necessarily have to be left to the pledgor and the owner of the upanidhi. [5]The reason for this has been stated [6]in the second half of the verse, [7]namely: if they remain outstanding for a long time, they will become due to the possessor, and the possessor may sometimes even dispose of them.

[8]BṚHASPATI:

477 If before somebody's eyes his property is given to another person by his coparceners or by others and if he looks on when the other person uses it, he cannot get it back. [B 7.40]

478 If the owner does not protest when he sees that another person gives away his land, he cannot recover it again even if there is a document. [B 7.41]

[1]Further:

479 Not to use land, not to produce a document in due time, and not to remind witnesses, these are the causes that effect the loss of one's property. [B 7.66]

480 Therefore one should guard one's means of proof with care; it is by doing so that cases on immovables or movables succeed. [B 7.67]

[1]B 7.40 means: if before 'somebody's' = the owner's,

476.2 There are, indeed, two possible interpretations of the term upanidhi: (1) the interpretation applied to M 8.145 by Vāc: 'a deposit made over for use out of affection' (YDka 2.25); (2) the case in which "a chattel is given under seal to another person for deposit or if the depositary does not know what is deposited with him". The essential difference between both kinds of upanidhi consists in the fact that in the second interpretation "the depositary does not know what he takes into deposit and, moreover, cannot use it" (SJS, p.271).

eyes his property is being given to another person by his coparceners or by others, because of this transfer and because of the fact that the transferee has been put in possession of that object, the owner of the property cannot recover it. [2] In this case the owner generally loses his ownership.

[3] KĀTYĀYANA:

481 According to the prescriptions of the sacred law possession is valid when it is continuous, and of long standing; even if it has been interrupted, it should be known that it is valid if it has been established by previous generations. [K 329]

482 If possession has been uninterrupted since the time of acquisition, witnesses generally prevail. [K ?]

483 Within the time of memory the criterion in a land-dispute is considered to be possession supported by a title; since title arising beyond the time of memory cannot be proved, the criterion is considered to be (possession) held for three generations successively. [K 321]

[1] [K 329] 'Continuous' = uninterrupted. - [2] 'Of long standing' = extending as long as the periods prescribed by VYĀSA, etc. - [3] K 329cd means: possession which has been established by previous generations such as one's grandfather etc., should be 'known' (to be valid) even if it has been interrupted.
[4] What is to be 'known' is then explained in what follows, which means: [5] if, in either kind of possession, the one of which is of only short standing but uninterrupted and the other similar but interrupted, the title by which it is supported needs reinforcement, usually witnesses are the (adequate) means of proof.
[6] [K 321] 'Within the time of memory' = (within the time) that can be encompassed by memory. - [7] 'The criterion' = a valid means of proof. - [8] 'A title' = purchase, etc. - [9] 'Since there is no title' = becau-

---

483.6 Vāc avoids mentioning the exact number of years corresponding to the expression 'within the time of memory'. YMtā 2.27, on the other hand, explains it as a period of hundred years, and Sca 163 extends the period to one hundred and five years (= three generations of thirty five years each).

se the title cannot be reproduced (after so long an interval of time).
[10] Thus, the meaning is as follows: [11] (1) at a time when the title can still be encompassed by memory possession supported by a title is considered a valid means of proof (of ownership) in respect of land; [12] (2) but at a time when the title can no longer be encompassed by memory, i.e., at a time which stretches beyond (memory), the valid means of proof is mere possession without reproducing the title. But the latter rule does not apply when it is certain that there is no title, [13] since in this case ownership is denied by all (authors).

[14] Objection. When one says that the valid means of proof (of ownership) is possession supported by a title, this qualification is pointless.
[15] Refutation. This is not true. Indeed, the probandum is as follows: "This is my property now". [16] Here the following distinction should be made: title is essential (to prove) the part of the ownership in that probandum, possession (is essential to prove) its continuance up till now.

[17] YĀJÑAVALKYA:

484 When the person who has taken the title is put to the proof, he should produce it, but not his son or his son's son; with these possession is more valid. [Y 2.28]

[1] 'The title' = a way of acquiring goods, such as purchase, etc. - [2] 'When he is put to the proof, he should produce it' = he should establish its authority by means of documents, etc.
[3] Y 2.28cd means: for his son mere possession supported by a title is a valid means of proof (of ownership), but he need not also establish the title beyond doubt.

[4] BṚHASPATI:

485 The acquirer should establish possession and also his title in public; his son should establish only one, viz. possession; the latter's son need not establish anything. [B 7.39]

[1] 'The acquirer' = he who has made the acquisition.

[2] KĀTYĀYANA:

486 He who has acquired a particular object must produce it when he is put to the proof; even after enjoyment of long standing (mere) possession of his is not accepted. [K 324]

[1] That means: the acquirer's possession, even if it is of long standing, is not accepted as a valid means of proof (of ownership) if he does not produce his title.

487 When the acquirer is put to the proof, then a document or a witness is valid; in the absence of the possessor, however, and for his son possession is more valid than either of these. [K ?]

[1] That means: as a valid means of proof of his own acquisition the acquirer must show a document, etc. [2] In the absence of the acquirer, for his son mere possession is a more valid means of proof than a document, etc.

488 As far as cattle, women, men, etc., are concerned, neither the acquirer nor his son can rely upon possession (only). Thus, the sacred law has been settled. [K 316]

[1] The word 'etc.' refers to other living beings. [2] Here the following definitive explanation may be given. [3] Even for the acquirer possession fulfilling the five requirements (of Vy 1.84) is a valid means of proof (of ownership) in default of a document or witnesses, but the texts to that effect should be understood to refer to the majority of cases. In the same way, in case of cattle, etc., too, the rule that mere possession is not a valid means of proof must be understood to refer to the majority of cases only.

[4] YĀJÑAVALKYA:

489 When a person departs after he has been put to the proof, his heir should produce the (title); here possession is not a valid cause if it is established without a title. [Y 2.29]

[1] That means: if a person is put to the proof by somebody else at the very time when he is enjoying possession, and if he 'departs' = dies, before he has obtained a decision, 'his heir' = his son etc., 'should produce the (title)' = should prove that

matter by means of a title. [2]Possession is not a valid means of proof in that case, since the possessor's right has been competently put in issue by the challenge preceding (the original possessor's death).

[3]THE NEW SCHOOL say: Even if it is sure that there is no title, sixty years' possession is a valid means of proof of ownership, [4]according to the essence of N 1.91.
[5]This is not true, [6]since it has been completely rejected by the author of the PĀRIJĀTA who explains the singular in N 1.87 on account of the uninterrupted succession (of generations). He, accordingly, does not accept ownership to result from possession even if the object has been used in an uninterrupted succession by father and son, be it for several hundreds of years.

[7]EXCEPTIONS TO THE RULE THAT PROPERTY IS LOST THROUGH POSSESSION BY ANOTHER PERSON.

[8]About this BṚHASPATI says:

490 Possession held for three generations creates ownership for other people, no doubt; it does not for those sakulyas who are not beyond the degree of sapiṇḍas. [B 7.43]

491 But when a house, a field, a shop, etc., has been possessed by a person who is not the owner, it is not on account of that possession lost to a friend, a relative, or a kinsman. [B 7.44]

492 When an object has been possessed by a son-in-law or a śrotriya, and also by the king or a minister, even after a long time it does not become their property. [B 7.46]

[1](Notice the unusual term) vivāhya = a son-in-law.

---

490 Three groups of possessors have been distinguished in this verse: (1) a very limited group of relatives called sapiṇḍas (a disputed term, cf. [HH vol.II, p.452 etc.]); (2) a wider group of relatives called sakulyas among whom the sapiṇḍas are included; (3) all other people. The text prescribes that possession held for three generations creates ownership for group (3) and for those sakulyas of group (2) who do not at the same time belong to group (1). Cf. Rocher, L. Possession held for three generations by persons related to the owner. In: Brahmavidyā 18(1954), p.171-77.

[2] MANU:

493 A pledge, a boundary, the property of children, a deposit, an upanidhi, women, the king's property, and property of śrotriyas, do not cease through possession (by others). [M 8.149]

[1] BṚHASPATI:

494 When property belonging to one who has renounced the world, one tired, one affected by a disease, a child, or also one who wanders about from fear, is possessed by somebody else after it has been entered in a patent, it is not lost by this possession. [B 7.47]

[1] 'Entered in a patent' = written on a copper-plate, etc.

[2] KĀTYĀYANA:

495 One should not bring about (ownership through) possession with regard to women, the goods of gods and kings, the property of children and śrotriyas, and what has been acquired from one's ancestors by inheritance. [K 330]

496 In no case can there be (acquisition through) possession without a title, for women, for deities, śrotriyas, or kings, or for the property of children. [B 7.29]

[1] MANU:

497 Objects that are used out of friendship are never lost (to the owner), a cow, a buffalo, a draught horse, and an animal which is used to be tamed. [M 8.146]

[1] 'Which is used to be tamed' = which is normally fit to be tamed, such as a bull, etc.

[2] KĀTYĀYANA:

498 The owner should be punished if out of folly he violently removes the price which has been deposited with artizans, a pledge, a deposit for

---

498 A deposit for delivery. Anvāhita, which is treated as a subdivision of deposit (nikṣepa), takes place "if the owner A committed to the care of B an object and this B lodged it afterwards, further on, in the hands of C with the clear mandate to return it to A" (SJS, p.277).

delivery, or a loan for use. [K ?]
[1] The price is called kraya, since things are bought [krīyate] with it.

[2] YĀJÑAVALKYA:

499 The robber of a pledge etc., should be forced to give the object to the owner, and to the king a fine either equal to it or even according to his capacity. [Y 2.26]

[1] (The robber) who is not capable of paying a fine equal to the (object stolen) should be fined according to his capacity.

[2] Their real meaning is, that these instances of possession which have been detailed as destitute of the power to prove ownership, suffer from (the logical defect of) anyathāsiddhi.

[3] THE RESPECTIVE WEIGHT OF DOCUMENTS, WITNESSES, AND POSSESSION.

[4] About this NĀRADA says:

500 A document is always valid, witnesses as long as they are alive only, possession through a lapse of time. Thus it has been settled in the prescriptions of the sacred law. [N 1.75]

501 Among these three types of natural means of proof each following one is more weighty than the preceding; possession is theweightiest of all. [N 1.76]

[1] [N 1.76] 'The preceding one' means: a witness is more weighty than possession, and a document is more weighty than the former. - [2] 'Possession is the weightiest of all' means: possession fulfilling the five requirements is more weighty than (1) posses-

---

498 A loan for use. Cf. note 270.1.

499.2 Anyathāsiddhi. The expression that these kinds of possession 'suffer from anyathāsiddhi' or that they 'are anyathāsiddha' with regard to ownership means that these kinds of possession and ownership do not stand in the relation of cause (kāraṇa) and effect (kārya), i.e., that the possession (of a pledge, etc.) does not invariably result in ownership. Indeed, causality has been defined as follows by the NAIYĀYIKAS: "Causality is the invariable antecedence of an element which is free from anyathāsiddhi (lit., from the fact that it is known also to occur in other circumstances)" (cf. Bhāṣāpariccheda, par.16).

sion of short standing, (2) witnesses, and (3) documents. [3] BHAVADEVA reads: 'is more weighty than both of these'. [4] This, however, is easily understandable.

[5] Here, however, the question arises, [6] whether this possession mentioned in the prescriptions of the sacred law creates ownership or is a valid means of it.

[7] About this BHAVADEVA says: [8] (Possession) certainly does not create (ownership), [9] since it has not been revealed anywhere that it does create ownership, just as (it has not been revealed anywhere that) sacrifices performed for the benefit of somebody else (would create any benefit for the officiating priest), etc. [10] Nor is it a valid means of proof (of ownership). [11] For, if this was the case, possession would be a valid means of proof for the possessor's ownership, either because it is its probans, or by reason of the incomprehensibility (of ownership without possession). [12] It is not the first of these (two possibilities), [13] for there is no reason to accept an invariable concomitance (of ownership) with such a possession. [14] Moreover, if by means of possession it could be validly proved that the ownership actually existed of old, N 1.91 would be contradicted. [15] Indeed, one cannot posses one's own property illegally. [16] Consequently, the second possibility(, viz. by reason of the incomprehensibility of ownership without possession,) does not hold good, either. [17] For this impossibility (of posses-

----

501.2-4 The difference which Vāc draws between his own reading and Bhde's is obvious in the Sanskrit text but it cannot be adequately expressed in the translation. The last quarter of the verse literally says: 'possession is weightier than these'. 'These' being expressed in the plural number, the sentence means that possession is weightier than (at least) three other means of proof, whereas only two other means of proof (documents, and witnesses) have been mentioned. This explains for the far-fetched interpretation proposed by Vāc, viz. possession fulfilling the five requirements enumerated in Vy 1.84 = Vyci 452 (and especially the second requirement: 'of long standing') is more weighty than (1) (ordinary) possession of short standing, (2) witnesses, and (3) documents. On the other hand, in the text of Bhde, 'these' has been expressed in the dual number. This is the lectio facilior, acc. to which one means of proof (possession) is more weighty than the other two (documents, and witnesses). The latter reading does not require a far-fetched explanation; that is the reason why Vāc calls it 'easily understandable'.

sion without simultaneous ownership) cannot apply to women, to goods belonging to the king, etc., since for these possession can never be a valid means of proof (of ownership).

[18] Therefore, one should answer the question as follows. [19] Since (the goods) are being relinquished by the owner in favour of the possessor, possession creates the desire of deleting the ownership. [20] For it is impossible, [21] that a man would tolerate such an enjoyment of the object in question without (the intention of) renouncing it. [22] Moreover, when a certain object is being relinquished by one person in favour of another person, and when the latter accepts it, it becomes his property indeed. [23] Just as in accordance with the injunction relating to water, etc., relinquished in favour of all beings, these objects too, become the property of the possessor through this very (relinquishment). [24] As to women and goods belonging to the king, however, it is not like this. [25] For, inasmuch as a wife does not rank among (the husband's) property, and inasmuch as the goods belonging to the king are too extensive (to allow for an actual possession on his part), relinquishment itself is impossible with regard to these.

[26] (If we now apply this theory of the deletion of ownership to land, etc., we may say as follows:) For land, etc., a twenty years' possession is a valid means of proof for the deletion of the previous owner's ownership; for cows, etc., ten years' possession. The inequality of the periods involved is quite appropriate. (1) Since land, etc., yields a considerable profit, it is an object of very great

---

501.18 In other words: "Bhavadeva maintains that adverse possession for the described period to the knowledge of and without any opposition from the owner has the effect of raising a presumption that the owner must have abandoned the property, which being taken up by the possessor, he acquires a title to it by a sort of appropriation (parigraha) of a thing which is for the time without an owner" [NN,p. 106].

501.25 From this sentence it is clear that Vāc analyses the compound strīrājadhana not as 'goods belonging to women and goods belonging to the king' (as against 472.2) but as 'women and property of the king'. It is not possible to ascertain whether this is the way in which Bhde himself interpreted the dvandva-compound. Vpra 161, while quoting the same passage from Bhde, clearly analyses it as 'goods belonging to women and goods belonging to the king'. MITRA MIŚRA says: 'Relinquishment cannot be applied to goods belonging to women, since the women's relinquishment might be due to their ignorance only'.

value; therefore it has been arranged that its ownership should be lost after a long time only. [27] (2) Since the other objects do not have such characteristics, it has been arranged that their ownership should be lost even after a short time. [28] As to the fact that even for the very same object, such as land, the possessor's ownership is created by the lapse of unequal periods, this is equally appropriate, since it is based on the authority of texts itself. [29] Just as, indeed, the same fact, e.g., birth, does create ownership in the father's goods for a son but it does not for a daughter.

[30] To this the author of the PRADĪPA says what follows. [31] Possession of this kind is not a valid means of proof of relinquishment by the previous owner. For this statement would not be wide enough to comprehend a case like this. Imagine an owner of land who contemplates as follows: "Since this (piece of land) does not yield me any profit now, let another person possess it for the moment; later on I will take the land back from him together with its profits". When (the owner) tolerates (that his land is being possessed by the other person) for this reason, there may be twenty years' possession, but the owner did not relinquish his land in favour of the (possessor).
[32] Objection. (This case can be solved as follows.) Because in his statement the previous owner says, that he did not relinquish (the land), he should undergo an ordeal, and if he loses it, the relinquishment should be considered as a fact.
[33] Refutation. This (solution) should not be proposed. Inasmuch as the previous occupation, which is evident from the previous possession, took place at a

---

501.30 In other words: "Pradīpakāra also accepts this (= Bhde's) view, but with a little emendation; he says that the presumption arises from adverse possession extending over the prescribed period coupled with the impossibility of ascribing non-resistance to mere indifference or goodnaturedness of the owner, and the character of the presumption is that the owner has either transferred the thing to the person in possession or has abandoned it is his favour, it being unnecessary to select between the two" [NN,p.106-07].

501.32 The reason why the objector proposes this solution is, that the owner (= the plaintiff who wants to recover his land) produces a negative plaint. And since the defendant (= the possessor) answers with a reply by way of denial, the burden of proof is upon the plaintiff (cf.179). The only possible way to prove a negative plaint is an ordeal.

time when it cannot be ascertained whether (the owner) had relinquished (his land or not), and accordingly this occupation does not create ownership in the possessor, this (solution) would be pointless, anyhow.
[34] Moreover, why would a sensible owner of land frivolously renounce his property? [35] Neither can one, in this case, refer to an explicit beneficiary, since (no person) is being (mentioned in that capacity), [36] nor to an implicit (beneficiary), since there is no such institution in the sacred law.
[37] It is also not possible (to decide upon the owner's) relinquishment for such other reasons as his magnanimity, natural amiability, compassion, etc. [38] For it is also possible, that (the owner) although (apparently) relinquishing (his property), tolerates (his land being used by the possessor) for these reasons only (and not with the intention to permanently leave it to him).
[39] Nor is there such a rule (as said by BHAVADEVA), that when a certain object is being relinquished in favour of a certain person, it becomes the latter's property. [40] For this rule is not wide enough to comprehend the case in which the object is not accepted by the beneficiary.
[41] Besides, if the possessor's ownership would be the result of (the owner's) relinquishment, it should be so either automatically, or inasmuch as (the possessor) knows of it. [42] It is not the first, [43] since (this practice) has not been observed before. [44] If it was the second, the possessor's knowledge should be the result of the owner's words (to that effect) or any other such means. [45] Accordingly, it should be the result of the owner purposely making a statement like this: "I relinquish this property in favour of this person". [46] This, however, would be a plain gift! [47] So, there is an end to our pursuit of negligence (or relinquishment).
[48] (It has been said above, that) one cannot infer

501.39-40 If this passage is directed against Bhde, as may be assumed from the context, there is some inconsistency in the way in which the texts of Bhde and Pdī have been transmitted in Vyci and other nibandhas. Pdī objects against Bhde that his statement acc. to which any object relinquished in favour of a certain person becomes the latter's property, is too wide. This statement should have been provided with the restriction: 'when the beneficiary accepts it'. Actually this restriction has been added in the text of Bhde as we have it (Vyci 501.22).

(the owner's) relinquishment merely from his tolerating (that his property is being possessed by another person), [49] since it is possible that he tolerates this through natural amiability, etc., even though he does not (intend to) relinquish it. [50] (This inference is correct, but) one should not in the same way make the following statement: one should also not infer the possessor's ownership from the said toleration, [51] since this is a wrong demonstration, inasmuch as (the toleration) may be caused by (the owner's) natural amiability even when the latter's rights in the object are actually untouched. [52] Indeed, if it was possible that such toleration through (the owner's) natural amiability would last as long as sixty years (without creating the possessor's ownership), this would defeat the statement of the smṛti according to which such (sixty years') possession is a valid means of proof of the possessor's ownership. [53] Consequently, such possession is a valid means of proof of the possessor's ownership; [54] and this (ownership) must be created either through a previous title or through the owner's relinquishment of the object in favour of the possessor. Therefore, the word not is out of place here.

[55] YĀJÑAVALKYA:

502 When the person who has taken the title is put to the proof, he should produce it, but not his son nor his son's son; with these possession is more weighty. [Y 2.28]

[1] That means: if there is any doubt with regard to a title, the acquirer should prove its validity. [2] For his son, however, the mere fact of his possession supported by a title is a valid means of proof (of ownership).

[3] But if the title has not been established by the father although the latter has already been ordered to prove it, then it must be established by his son, [4] as NĀRADA says:

503 When a litigant dies after a lawsuit has been instituted, his son must establish the case; possession would not avert it. [N 1.93]

[1] That means: 'possession' = mere possession established without a title, would not avert 'it' = the

lawsuit.

[2] FAILURE OF PROOF DUE TO THE ABSENCE OF ENJOYMENT.

[3] About this YĀJÑAVALKYA says:

504 Even a title is not valid if there is not at least some possession. [Y 2.27cd]

[1] That means: even if there is a title, ownership cannot be established as long as there is no possession.
[2] At the basis of this is the following principle of equity: when somebody donates something stipulating another person (as the receiver), the latter's ownership cannot be taken for granted, because there is no possession to indicate the acceptance of the object mentioned in the stipulation.
[3] SOME, however, explain as follows: [4] That means: when both parties act on the authority of their respective titles and when the priority and posteriority of both cannot be ascertained, then the title of the (party) who enjoys possession is more weighty than that of the other (party).

[5] NĀRADA:

505 Even if there is a document and even if the witnesses are alive, especially as far as immovables are concerned, nothing is firm which is not possessed. [N 1.77]

506 If anybody is so foolish as to look on when his own goods are being openly used by other people, even while he is looking on possession brings them under the control (of the possessor). [N 1.78]

[1] [N 1.77] 'Nothing is firm'. In other words: it does not have a valid means of proof to establish an ownership of long standing.
[2] N 1.78 means: if anybody is so foolish as to look on when his own goods are being used by other people, he cannot on account of the possession obtain a compensation from the possessor, because he himself has been neglectful.

[3] On the same point YĀJÑAVALKYA says:

507 If (the owner) looks on without saying anything when his land is being used by somebody else,

it is lost after twenty years; goods, after ten years. [Y 2.24]

[1]VYĀSA:

508 Just as a cow disappears when it is neglected and left without a cowherd, in the same way in the course of time land is lost when it is used by others under the eyes (of the owner). [Vy 1.76]

509 When in a country in which the king is present a capable person's land has been correctly used by others in this world for twenty years, it no longer belongs to him. [Vy 1.77]

[1] 'It no longer belongs to him' = it is lost to him, it is not accepted to be his.

[2]NĀRADA:

510 Except when they concern a woman or property of the king, even pledges etc., are lost to their owners if they have been enjoyed openly for twice ten years. [N 1.82]

[1] 'Twiçe ten years' = twenty years. - [2] 'Even pledges etc.' should be understood in the same way as the maxim: "You should better eat poison (than to take a meal in that person's house)", for the fact that a pledge would be lost (by possession) has been forbidden by the following text of NĀRADA:

511 A pledge, a boundary, the property of children, a deposit, an upanidhi, women, the king's property, and property of śrotriyas, do not cease through possession (by others). [N 1.81]

[1-2] MANU:

512 Redemption of both a pledge and an upanidhi

510.2 The two texts, N 1.82 and N 1.81, are mutually exclusive, since in the former it has been said that a pledge is lost when it has been kept with the pledgee for a period of twenty years, whereas acc. to the latter pledges can never be lost through adverse possession. Vāc removes this inconsistency by stressing the word 'even' in N 1.82. He compares N 1.82 to the popular maxim: "It is even better that you should eat poison than to dine in that man's house". In other words: Vāc ranks N 1.82 among such statements as are technically called arthavādas. An arthavāda is an expression which does not make sense when taken literally, but which is made in order to glorify something else by implication (MNp, par.364-367). The words: "You should better eat poison" are intended to stress the prohibition not to eat in the other man's house. Similarly, 'Even pledges are lost through possession', really means a glorification of the fact that they are not!

may not be delayed; both of them would have to be left if they remained outstanding for a long time. [M 8.145]

[1] Ādhi = an ordinary pledge. - [2] Upanidhi = an object that has been handed over out of friendship, tobe used. E.g., a field, etc. - [3] 'May not be delayed' means: at the time of their redemption they necessarily have to be left. [4] The reason for this has been stated [5] in the second half of the verse, [6] namely: if they are outstanding for a long time, they will become due to the possessor, and the possessor may sometimes even dispose of them.

[7] BṚHASPATI:

513 If before somebody's eyes his property is given to another person by his coparceners or by others and when he looks on when the other person uses it, he cannot get it back. [B 7.40]

514 If the owner does not protest when he sees that another person gives away his land, he cannot recover it again even if there is a document. [B 7.41]

[1] Further:

515 Not to use land, not to produce a document in due time, and not to remind witnesses, these are the causes that effect the loss of one's property. [B 7.66]

516 Therefore one should guard one's means of proof with care; it is by doing so that cases on immovables or movables succeed. [B 7.67]

[1] Accordingly the essential meaning is as follows: the texts about losing (one's property) are meant (to stress the necessity of) guarding one's means of proof.

[2] THE DECISION ABOUT INTERRUPTED POSSESSION.

[3] About this BṚHASPATI says:

517 If any doubt arises [saṃdigdha] with regard to a house or a field that has been possessed with interruptions, one should establish (the possession) by means of a document or witnesses who are aware of the possession. [B 7.48]

518 Such people are witnesses in this case who

know the name, the boundary, the title, the quantity, the compass bearing, the time, and the reason for the interruption of the possession. [B 7.49]

519 If neighbours who were born on the spot reside abroad, they are called hereditary (witnesses) and they should be questioned in the decision of the case. [B 7.50]

520 If they are not disqualified and if they speak impartially in a case of doubt, they should be accepted as valid means of proof; in this way the sacred law is not violated. [B 7.51]

521 This is said to be the right way of proving acquisition and possession in cases on immovables; but in a suit devoid of (such) valid means of proof a divine trial should be advised. [B 7.52]

[1][B 7.48] (Notice the adjective) saṃdigdha (for the substantive saṃdeha) = doubt.
[2][B 7.49] 'The name' = (the name) of the field, etc. - [3](Notice the term) āghāṭa = the boundary. - [4]'The title' = the probans of ownership. - [5]'The quantity' = (the quantity) of the land. - [6]'The compass bearing' = also of the same. - [7]'The time' = the time when the title (has been taken).
[8][B 9.52] 'In a suit devoid of (such) valid means of proof' = in a suit devoid of human evidence.

[9]Here ends (the section on) possession.

- - - - -

(521) [10] SECTION D : C I R C U M S T A N C E.

[11] About this BṚHASPATI says:

522 For an act that has occurred long ago and for which there are no witnesses, one should either question indirect witnesses, or one should administer oaths, or one should use an artifice. [B 7.68]

[1] 'An artifice' = circumstance.

[2] NĀRADA:

523 When out of negligence the creditor has neither a document nor witnesses, and the defendant denies the case, then the rule prescribed is threefold: [N 1.235]

524 A timely injunction, an aspect of circumstance, and, in the third place, an oath. They should be used as means of proof in this order. [N 1.236]

525 If (the defendant) does not retort (the plaintiff's) words even when repeatedly enjoined, three, four, or five times, thereafter he should be forced to pay the object. [N 1.237]

[1] 'A timely injunction' = a repeated request with the words: "Give me that property which is not yours".

[2] KĀTYĀYANA:

526 If (the defendant) does not retort when the plaintiff relates a fact, or if he remains silent at the time when he should produce (his reply), he is considered to agree with that fact. [K 144]

527 When (the defendant) is requested by the plaintiff, three, four, or five times, and he does

---

525.1 Besides, it is also required that the accused should not retort this repeated request. If he does retort to it, the case should be decided by an aspect of circumstance, cf. 529.

not retort, after that he becomes his debtor. [K 336]

528 When a brāhmaṇa does not retort what has been said once by the owner, the king should force him to pay by instalments; any other person should be forced to pay earlier. [K ?]

[1]That means: when a brāhmaṇa does not retort what has been said 'by the owner' = by the creditor, i.e., what has been requested with the words: "Give me my goods", he should be forced to pay by instalments; any debtor other than a brāhmaṇa should be forced to pay even without instalments.
[2]OTHERS say: It means, that a brāhmaṇa should be forced to pay the goods when he does not retort several requests; a non-brāhmaṇa should be forced to pay when he does not retort a single request.

[3]NĀRADA:

529 When (the defendant) has retorted the injunction, (the plaintiff) should prosecute him by means of such aspects of circumstance as place, time, the matter, the purpose, the quantity, the activities, etc. [N 1.238]

[1]That means: [2] when the debtor retorts the request saying: "I do not owe it", then the decision should be made by means of circumstances, which are sometimes referred to as 'inference'.
[3]E.g., when the creditor complains that the debtor has contracted a debt in a certain place, at a certain time, with a certain matter or purpose, and when it is impossible that a debt would have been contracted in that place etc., and with that purpose, this is a decision by means of circumstance.
[4]In the same way it is also a decision by means of circumstance of quantity, when a person from whom not even a hundred (coins) could have been borrowed says: "He has borrowed a thousand of mine".
[5]In the same way, when one knows the debtor's activities, e.g., that he has been paying a monthly interest, one may decide (that he does owe a certain amount) by means of circumstance.

529.5 NAhā 1.238 adds that these different aspects of circumstance should be applied in the order in which they have been mentioned in the text, i.e., the next one only in case of failure of the preceding.

[6]The oath will be explained hereafter.

[7]In the same way, as to the statement of NĀRADA, that the entire subject-matter of the lawsuit must be given as soon as one part (of it) has been proved:

530 If the defendant denies all items of a plaint containing several and when he is proved guilty with regard to one part of them, it is just that he should pay the other part, too, [N 7]

[1]this does not refer to the following case: when different objects which are contained in the same receptacle are stolen, e.g., gold, silver, etc., all of them should be given as soon as the theft of one object has been proved. [2] In this case there is no evidence for the truth (of the theft) of the objects that have not been proved. [3] Indeed, these cannot be established from the mere words of the plaintiff, [4]since they might be false as well. [5]Nor should the plaintiff, by means of further evidence, e.g., a witness etc., prove that (all) these items were deposited in that (receptacle) at that moment, [6]since, under these circumstances, it would be pointless to say that the case is decided etc., by this further evidence only.
[7]Actually the text of NĀRADA either refers to the case in which the theft of one of the objects is invariably concomitant with the theft of the others, [8]or it refers to the case where the defendant has made the agreement: "I will give all the objects mentioned in the plaint as soon as you prove one among them".

[9]NĀRADA:

531 Six other types of lawsuits are said to be provable without witnesses; the wise say, that for them mere indirect indications stand for witnesses. [N 1.172]

532 (1) One who is carrying a firebrand should be known to be an incendiary; (2) one who is carrying a weapon in his hand is a murderer; (3) one who is caught head to head (with another man's wife) should immediately be known as an adulterer. [N 1.173]

533 (4) One who is carrying a spade in his hand

and approaches the place should be known as the destroyer of a dam; (5) one who is carrying an axe in his hand is said to be the destroyer of woods. [N 1.174]

534 (6) The perpetrator of physical assault should be found out by means of visible signs. These are the cases that are provable without witnesses. In case of assault, however, an investigation is required. [N 1.175]

[1] [N 1.172] 'Stand for witnesses' = take the place of witnesses. [2] They take the place of witnesses because they are invariably connected (with the offence).

[3] [N 1.175] 'Visible signs' = a sword covered with blood, etc. - [4] 'Assault' = verbal assault.

[5] KĀTYĀYANA:

535 (1) A gift, (2) the change of a distinctive mark, (3) the act of engaging (third parties), and (4) making away with property, these are the causes that prove (the probandum). [K 337]

[1] 'A gift' = giving a bribe. - [2] 'The change of a distinctive mark' = altering the sign by which something can be known. - [3] 'The act of engaging (third parties)' = exciting greed (on the part of third parties) for an extra profit out of some other enterprise.

[4] ŚAṄKHA:

536 One who is caught head to head (with another man's wife) is an adulterer, one who is carrying a firebrand in his hand is an incendiary, one who is carrying a weapon in his hand is a murderer, one who is carrying a stolen object in his hand is a thief. [ŚL 328]

537 In case of denial eight hundred, or according to the nature (of the case). When it is evident that blood has flown or that a blow has been given, witnesses are not required; and when this is evident through visible signs, eight hundred. [ŚL ?]

[1] 'In case of denial' = when one denies a blow which has been ascertained by means of the above mentioned sings. - [2] 'Eight hundred' should be supplemented as follows: the punishment is (eight hundred) paṇas.

[3] Inasmuch as these circumstances take the form of an inference based on an invariable occurrence which is difficult to be ascertained, they are not common to all people, but they are entrusted to very clever arbitrators only.
[4] This (kind of evidence) is also called 'a decision by direct perception'.

- - - - -

(537) [5]SECTION E : ORDEALS.

[6]About this NĀRADA says:

538 When circumstances are also inadequate, one should torment him by means of such ordeals [śapatha] as fire, water, good deeds, etc., taking into consideration the relative importance of the subject-matter and the time. [N 1.239]

539 The balance, fire, water, poison, and, fifthly, holy water, these are the ordeals which the high-minded have prescribed for the sake of purgation. [N 1.252]

540 Nārada has prescribed them in this world in order that the high-minded might examine those who are accused in doubtful cases, in order that truth be distinguished from untruth. [N 1.253]

[1][N 1.239] 'Torment' = harrass.
[2][N 1.252] 'Fire, etc.' = to put one's hand into fire or water, saying: "(If I have done wrong), the fire will not help me, the water will pull me down".
[3][N 1.239] 'Good deeds' = the oath: "My (good deeds) will be destroyed".

[4]As to the objection that fire etc., in these texts are to be taken as ordeals (and not as oaths, as said in N 1.239) since these are different from oaths, this will be discussed later (cf. 690[1]).

[5]Objection. (The above enumeration of ordeals is not exhaustive, since) BṚHASPATI has also mentioned other ordeals, when he says:

---

538 The relative importance of the subject-matter and the time. Vāc does not explicitly analyse the compound arthakālabala°, but he probably has in mind the solution proposed by NAhā 1.239, Ssā 113, and especially Vta 227: 'The relative importance of the subject-matter = whether it concerns a large or a small amount, and the relative importance of the time = whether it is auspicious or not'. Against this stands NMsBhsvā 1.215: 'Taking into consideration the subject-matter, the time, and the importance (of the case or of the litigant?)'.

541 The balance, fire, water, poison, and, fifthly, holy water; rice is prescribed as the sixth, hot gold as the seventh; [B 8.3]

542 The eighth is called the ploughshare, the ordeal of dharma is the ninth. All these ordeals have been set forth by the Self-existent. [B 8.4]

[1] Further:

543 I summarily explain (the ordeals), whose purpose is the rectification of dubious matters, which are connected with the place, the time, the amount, etc., one after the other. [B 8.5cdef]

544 They should be administered according to (the nature of) the offence, with the aim of pointing out the good and the bad, strictly according to the rules laid down in the sacred law and not otherwise. [B 8.6]

[1] 'Drinking the holy water' = drinking as much as can be contained in three of one's own handfuls from the water in which (Śiva's) trident, etc., have been bathed.

[2] This objection is true, but it has been contradicted by YĀJÑAVALKYA, [3] as he says:

545 The balance, fire, water, and poison, these are the ordeals that are used for the sake of purgation in this world in major trials, when the plaintiff is willing to undergo punishment. [Y 2.95]

[1] Accordingly, there is the following limitation: (1) These (ordeals) may be administered in major trials only, not elsewhere. [2] (2) And also not just 'these' ordeals without further qualification. [3] E-

---

544.1 The reading triśūla (=trident) has been preserved because it is found in all Mss. Besides, there can be no real objection against it, for Pi 157 (Dhko 516) says that a person should be bathed in the water of the particular deity of whom he is a devotee, i.e., in the water in which the weapon which is peculiar to that deity has been bathed (Pi 159cd = Dhko 517). Accordingly, it is quite natural that a Śaiva should be bathed in the water in which Śiva's trident has been submerged. Nevertheless, the reading triśūla might also be a clerical error for śūla, i.e., Durgā's spear. This is, indeed, the first of the two examples explicitly mentioned by Pi 159a (Dhko 517). It is also not impossible that even triśūla has been intended to refer to Durgā, since it is known that Śiva's wife too, has been called triśūlinī (cf. [AA 4, p. 43]).

ven in a major trial they should not always be administered, but only when the plaintiff is willing to undergo punishment [śīrṣakastha]. [4] Śīrṣa means 'head'; it means, that he is willing to undergo his own punishment in case the person who undergoes the ordeal wins.

(THE ORDEAL OF THE BALANCE.)

546 The accused should stand on the balance; experts in weighing should make (the balance) even by means of counterweights, and he should be ascertained (to be in balance) by drawing a mark. [Y 2.100]

547 "O balance, you are an abode of truth, you who have been created of old by the gods; so, speak the truth, o auspicious one, free me from doubt. [Y 2.101]

548 If I have committed a sin in this matter, then let me sink downward; if I am pure, let me rise upward". Thus he should address the balance. [Y 2.102]

549 If a man rises on being weighed (again) he is cleared, no doubt; if he remains on the same level or if he sinks down, he is not. [N 1.283]

[1] PITĀMAHA:

550 The beam of the balance should be made four hastas in length, and equally long one should make both posts; but the intermediate space should be two hastas or one and a half only. [Pi 87]

[1] In the SMṚTISAMUCCAYA, however:

551 "You, o balance, are the only one who knows what men do not know; this man who has been accused in a legal procedure, is being weighed

552 on you; so, in accordance with the sacred law you ought to free him from this doubt". [Vi 10.10cd,11 = Pi 102,103]

---

550 Hasta. As a measure, 1 hasta = 1 cubit (ca. 18 inches). It is divided into 2 vitastis (spans) and 24 aṅgulas (fingers) (cf.560).

553 The same worlds that are said to fall to the share of the murderer of a brāhmaṇa and to a false witness, also fall to him who administers an ordeal if he performs the weighing falsely. [Vi 10.9]

[1] VYĀSA:

554 He who sinks downward is not cleared, he who is cleared rises upward; even he who remains on the same level is not cleared. Thus the rules about purgation have been set out. [Vy 2.17]

555 When the strings crack, when the beam of the balance breaks, or the scale or the curved ends of the beam, when the ropes crack, and when the pivot breaks, in all these cases one should always declare (the defendant) cleared. [Vy 2.19]

[1]The meaning of (the above texts describing the procedure for the ordeal of) the balance can be summarized as follows. The accused should be weighed (for the first time) on the day of the preliminary consecration; then, he should fast, and the next day he should be weighed (again) after having uttered the mantras (mentioned above). When he rises upward, he wins; if not, he is defeated.

(THE ORDEAL OF FIRE.)

556 One should examine (the defendant's) hands after rice has been rubbed in them; then one should put on them seven aśvattha-leaves and fix the latter with as many threads. [Y 2.103]

----

556 Aśvattha. A special sanctity has been ascribed to the aśvattha or pippala tree (ficus religiosa). As for its application in the ordeal of fire, cf. Mitra, S. C. (Fire-Ordeals. In: QJMS 24 (1933-34), p.234-35): "The Hindus believed that the leaves of the pipal-tree were imbued with the essence of divine afflatus of the god Vishṇu (the Preserver); and it was under the influence of this belief that they tied seven pipal-leaves (one upon the other) upon the hands of the accused person in order that Vishṇu's essence would prevent the latter's hand from being burnt by the red-hot iron in case he was really innocent". Cf. Pi 119 (Dhko 496): 'Fire originates from the Pippala; the Pippala is the king of trees; that is the reason why a wise man should put its leaves into the hands of the person undergoing the ordeal'.

557 On the leaves one should put *śamī*, unhusked barley, and dūrvā-grass. [Y ?]

558 "O fire, you who dwell in all beings, o purifier, after considering merit and sin, speak the truth inmy hand like a witness". [Y 2.104]

559 When he has thus spoken, one should put in both his hands an iron ball, weighing fifty *palas*, smooth, and coloured like the fire. [Y 2.105]

560 After receiving this he should slowly go through seven circles; each circle should measure sixteen *aṅgulas* and equally much the spaces in between. [Y 2.106]

561 When he has thrown down the fire and when he is not burnt when rice is being rubbed (in his hands again), he is cleared. When the ball slips from his hands on the way or in case of doubt he should start again. [Y 2.107]

562 A pure brāhmaṇa should order that an iron ball weighing fifty *palas* should repeatedly be made coloured like the fire, sparkling, and that it is well protected. [N 1.289]

563 When it is glowing for the third time he should speak as follows, respecting the truth: "Listen to this sacred law of Manu which is superintended by the guardians of the world". [N 1.290]

564 "O fire, you who dwell in all beings as a witness; you, o fire, are the only one who knows what men do not know. [Vi 11.11 = Pi 126]

565 This man who has been accused in a legal procedure wants to be cleared; so, in accordance with the sacred law you ought to free him from this doubt". [Vi 11.12 = Pi 127]

[1]PITĀMAHA:

---

556 *Śamī*. The *śamī* tree is considered to have very hard wood, which is employed to kindle the sacred fire.

559 Acc. to Schlagintweit [RR, p.22, note 32] this weight corresponds to 2.3 kilogrammes or 5.02 pounds.

562 *Well protected*. The readings greatly vary. Some of the nibandhas in which the same reading is found explain: 'well protected in order that it cannot be touched by *caṇḍālas*, etc. (Mra 103, Vpra 196).

566 He should not move quickly but at ease and slowly; he should not skip a circle nor should he put his foot in between. [Pi 129]

567 When he reaches the eighth circle a wise man should throw (the ball) down in the ninth. [Pi 130ab]

[1] YĀJÑAVALKYA:

568 If the accused stumbles and burns another than the appropriate place, the gods do not consider him burnt; to him the ordeal should be administered again. [K 441]

569 A pure man should deposit in (the defendant's) hands rice and barley, and he should rub them

570 indiscriminately; if there is no alteration at the end of the day, one should declare him cleared. [Pi 130cd,131]

[1] VIṢṆU:

571 If a man is burnt somewhere in his hands, he should not be declared cleared; but if he is not burnt anywhere, he is cleared. [Vi 11.8]

[1] The meaning of the whole is as follows: on the previous day the accused should fast, perform the preliminary consecration, etc. On the next day, when he stands in the first circle, his hands should be examined. While standing in the first circle a piece of iron should be put in his hands, in which before seven aśvattha-leaves have been put, which have been fixed with as many threads, and which have been covered with barley, dūrvā-grass, and śamī. Then, stepping into six circles one by one, while standing in the eighth he should throw the iron ball down in the ninth. [2] If there is any doubt that he skipped a circle, etc., he should start again.

(THE ORDEAL OF WATER.)

572 "Protect me by truth, o Varuṇa!" Thus addressing the water he should catch the thigh of a man standing in the water up to his navel, and he should dive into the water. [Y 2.108]

573 Another quick moving man should bring back the arrow that has been sent off at the same time. When on his arrival he still sees (the accused) having his body submerged, the latter is declared cleared. [Y 2.109]

574 'Otherwise he is not cleared, even if only one limb has become visible, nor when he has moved away from the place in which one has made him submerge before. [N 1.312 = Pi 145]

[1][Y 2.108] '(Protect me) by truth'. (The words to be addressed to the water are as follows:)

575 "O water, you who dwell in all beings as a witness, you, o water, are the only one who knows what men do not know. [Vi 12.7]

576 This man who has been accused in a legal procedure dives into you; so, in accordance with the sacred law you ought to free him from this doubt". [Vi 12.8]

[1]Further:

577 Another equally quick moving man should take the middlemost arrow and return with speed to the place from where the (first) man has started. [N 1.310]

578 When the person who brings back the arrow does not see (the accused) since he is completely under water, the latter should be declared cleared. [N 1.311]

579 If his body is still submerged when the middlemost arrow is brought back, he is considered cleared. [B 8.61ab]

[1]KĀTYĀYANA:

580 When a person has been submerged in water, and his head only has become visible but not his ears or his nose, even then one should declare him to be cleared. [K 444]

581 When a man after submerging emerges again because he has been detected by a living being, the ordeal must be administered again after he has shown the signs on his body. [K 445]

[1]That means: the accused should submerge, holding the thighs of a man who stands still in the water up to his navel. [2]At that very moment a strong man should shoot off an arrow and another strong man should bring it back. [3]If in the meanwhile the person submerged emerges either completely or even with a single limb, he loses (the case); if not, he does not lose it.

(THE ORDEAL OF POISON.)

582 "O poison, you who are brahman's son, who are persevering in truth and in the sacred law, protect us from the accusation, by means of truth may you be nectar for me!" [Y 2.110]

583 After speaking thus he should consume _śārṅga_-poison that grows in the Himālayas; when (the accused) digests it without illnesses he should be declared cleared. [Y 2.111]

[1]Y 2.110,111 mean: when the poison called _śārṅga_ is consumed according to the rules and it does not cause any alterations, then the accused wins (the suit).

[2](THE ORDEAL OF THE HOLY WATER.)

Drinking the holy water he explains in Y 2.112,113. This does not present any difficulties.

584 One should worship awful gods, take the water that has been used for bathing them, and after mentioning them aloud (the accused) should be made to drink three handfuls from this water. [Y 2.112]

585 If no great calamity caused by the king or by fate strikes him within a fortnight, he is cleared, no doubt. [Y 2.113]

---

583 _Śārṅga_. This poison is found in the root of the aconitum ferox, one of the ranunculae. It was also used as poison on arrows. One drop put on the tongue seems to be strong enough to cause unconsciousness for eighteen hours. Cf. a note on it in [RR,p.29,note 43].

585 It should be noticed that Vāc does not describe the remaining four ordeals: the grains of rice, the hot piece of gold, the ploughshare, and the ordeal of dharma. This omission should not raise any suspicion, (1) because the chapter on or-

[1] (WHICH PARTY SHOULD UNDERGO THE ORDEAL?)

PITĀMAHA:

586 One should avoid the first four types of ordeals, the balance etc., when the plaintiff is not willing to undergo punishment; the holy water is said to be the only ordeal which may be administered without the plaintiff being willing to undergo punishment. [Pi 38]

[1] Further:

587 Nobody should administer an ordeal to the plaintiff; those who are conversant with ordeals should assign the ordeal to the defendant. [K 244=411]

[1] Even if the plaintiff is willing to undergo punishment, one should not attach any importance to it if there is a royal decree (to the contrary). Thus NĀRADA says:

588 It has been taught that the ordeal should be administered to the plaintiff if he comes forward and if he is willing to undergo punishment, except when there is a royal decree (to the contrary). [N 1.269]

[1] YĀJÑAVALKYA:

589 Or at their pleasure one of them may undergo the ordeal and the other one should be willing to undergo punishment; in case of high treason and a sin he may undergo an ordeal even without the other party being willing to undergo punishment. [Y 2.96]

---

deals has been started by enumerating them in the words of N (N 1.252 = Vyci 539) who recognizes five ordeals only; (2) in 686.4 it has been stated that the treatment of the ordeals is not intended to be exhaustive. The reason why the point had, nevertheless, to be stated is as follows. With regard to B 8.80 (Dhko 522) in the paragraph on the ordeal of the ploughshare Dta 608 explains the word caura as 'the thief of a cow'. He ascribes this interpretation to MAITHILĀḤ, a term which in all other cases corresponds to Vāc.

587.1 This rule also has its counterpart in the fact that in certain cases the king may administer the ordeal to the plaintiff even if he is not willing to undergo the punishment (NAhā 1.269, Sca 225). Acc. to NAhā this rule should be restricted to cases where harm has been done inside the palace. Cf. N 1.270ab (Vyci 595).

[1]When both the plaintiff and the defendant mutually agree, the plaintiff himself may also undergo the ordeal, [2]since the valid means of proof which takes the form of an ordeal refers to affirmative and negative cases indiscriminately.

[3]In the KĀLIKĀPURĀṆA:

590 An ordeal should be administered in case of adultery, theft, intercourse with forbidden women, in case of persons accused of a major sin, when there is a royal decree.

591 The king should administer an ordeal after one party has agreed to undergo punishment in case of disagreement, a lawsuit, and when a wager has been fixed.

592 If in a case of adultery there are more plaintiffs, the ordeal may be administered without an agreement to undergo punishment, in order that (the party who undergoes the ordeal) may clear himself.

[1]'Disagreement' = concerning adultery. - [2]'A lawsuit' = (non-payment of) debts, etc.
[3]'Adultery' is illustrative of theft, etc.

[4]VIṢṆU:

593 In case of high treason and cases of violence (the ordeal may be administered to the plaintiff) without his being willing to undergo punishment. [Vi 9.22]

[1]PITĀMAHA:

594 An ordeal may be administered without one party being willing to undergo punishment, (1) to persons suspected by the kings, (2) to persons pointed out by robbers, and (3) to persons who want to clear themselves. [Pi ?]

[1]NĀRADA:

595 One may administer ordeals to the servants of the king even though they are not willing to undergo punishment. [N 1.270ab]

589.1-2 In other words: "An ordeal is not like human evidence confined to an affirmative only, but it extends indiscriminately both to affirmatives and negatives" [T,p.372].

[1](EULOGY OF ORDEALS.)

BṚHASPATI:

596 Witnesses may disagree out of affection, anger, or greed; when an ordeal is administered properly, no disagreement is possible anywhere. [B 8.14]

[1](THE ADMINISTRATION OF ORDEALS.)

PITĀMAHA:

597 Either the king himself or also somebody appointed by him should administer the ordeal in the presence of learned brāhmaṇas and the elements of the state. [Pi 51]

[1]He should administer the ordeal in the presence of brāhmaṇas and the elements of the state.

[2]VIṢṆU and KĀTYĀYANA:

598 A litigant should undergo any kind of ordeal in the presence of the king and of brāhmaṇas. He should be invited after he has taken a bath with his clothes on, at sunrise, and after a fast. [Vi 9.33]

[1]The chief judge should administer to the litigant any kind of ordeal at sunrise, in the presence of the king and of judges who are brāhmaṇas. The person who undergoes the ordeal should have fasted on the previous day and he should have bathed with his clothes on.

[2]PITĀMAHA:

599 Ordeals should always be administered to a person who has fasted for three days or for one day, who has performed a purgation, and who is wearing wet clothes. [Pi 53]

[1]This alternative of a three days' or a one day's fast should be applied according to the importance (of the case), whether the trial is a major one or a minor one, respectively.

598.1 Brāhmaṇas. I.e., the brāhmaṇas who act as judges in the case, and others as well (ViNpa 9.33).

[2]Further:

600 Like the officiating priest in the case of sacrifices, in the case of ordeals the chief judge should perform all acts, after a fast, at the order of the king. [Pi 54]

[1]This fast prescribed for the chief judge applies to the case where he superintends the worship of the gods which is part of the ordeal.

[2](The day of the week.)

Although in Vi 9.33 it has been unqualifiedly said that ordeals should be administered 'at sunrise', according to the practices of the learned one has to select a Sunday for this purpose.

[3](The part of the day.)

Further:

601 If one wants to attain the truth of the sacred law, one should examine the fire in the morning; the balance should be administered in the morning, the water at noon. [Pi 45]

602 The purgation by means of the holy water is prescribed in the morning; poison should be given at night during the last watch, when the temperature is very cool. [Pi 46]

[1]The (other kinds of ordeals) such as rice etc., for which no special time has been mentioned, should be administered in the morning only, according to the following text of NĀRADA:

603 It has been prescribed that all ordeals should be administered in the morning. [N 1.268cd]

[1-2] (The place.)

About the place where ordeals should be administered, KĀTYĀYANA says:

604 The wise say, that when men who have committed a major sin are being accused, to them the

---

604 Accused. This translation cannot adequately render the Sanskrit term abhiśasta. A person becomes abhiśasta when he is charged with a number of very specific offences which have been enumerated in Āp 1.9.24.6-9 as follows: one who kills a person belonging to one of the first two castes (a brāhmaṇa or a kṣatriya) who had studied the Veda or who had been initiated for the performance of a soma sacri-

ordeal should be administered near the place of Indra; to those who have committed high treason, near the gate of the palace; [K 434]

605 To those who were born from a pratiloma-marriage, near a cross-way; for all cases other than these, in the council hall. [K 435]

[1] [K 434] 'The place of Indra' = the place where the standard of Indra has been raised.

[2] (Sanction for not observing these rules of time and place.)

BṚHASPATI:

606 Those conversant with ordeals should administer them according to the rules; when they are not administered as prescribed, they are not adequate to prove the probandum. [B 8.15]

607 When they are administered in the wrong place and at the wrong time, and when they are performed without the party, in this way they always constitute a deviation in this world, no doubt. [B 8.16]

[1] [B 8.16] 'Performed without the party' = performed in the absence of the plaintiff. [2] This is applicable in the majority of cases only, [3] since for the sake of self-purgation ordeals have also been prescribed in the absence of the plaintiff (cf. 592,594).

[4] KĀTYĀYANA:

608 When the means of proof fail, the probandum should be proved again; when ordeals have ac-

---

fice, one who kills a mere brāhmaṇa (even one who had not studied the Veda or one who had not been initiated for a soma sacrifice), one who destroys the embryo of a brāhmaṇa whose sex was still unknown, and one who kills a woman who is an ātreyī (ĀpHda: a woman who has taken a bath after menstruation).

605 Pratiloma. A marriage is called pratiloma (= against the natural order, sc. of castes) when the wife belongs to a higher caste than the husband. (Opposite : anuloma, cf. note 19.6.)

605.1 The festival of the raising of the standard of Indra has been described at length in the Bṛhatsaṃhitā (ed. Kern, H. Calcutta 1865. P.186-98; tr. Kern, H. In: Verspreide Geschriften I. 's Gravenhage 1913. P.290-96. Cf. also [HH vol. II, p.825-26]). It is performed yearly by the king in order that no danger from enemies should befall him (Bṛhatsaṃhitā 43.68); acc. to Meyer (Über das Wesen der altindischen Rechtsschriften. Leipzig 1927. P.385-86, note 1) the standard of Indra is a symbolic representation of the fertility-genius.

607 A deviation. The result of this deviation has been described as the ordeal 'not solving the disagreement' (Vpra 182) and 'losing its validity' (Pdha 163).

tually been performed by foolish, greedy, and disqualified people, the king should refuse them, and they should be administered again according to what has been said before. [K 438]

[1]That means: in some cases, when the validity of the previous ordeal is suspected, it should be administered again.

[2](SELECTION OF ORDEALS ACCORDING TO THE SEASON.)

The different types of ordeals must be administered at different times (of the year). Thus PITĀMAHA says:

609 Now I will accurately explain the right time for each ordeal, how it is to be administered, and the relative strength of the litigant. [Pi 32]

610 Caitra, Mārgaśiras, and Vaiśākha, these are the months that are common to all ordeals and in no way hinder them. [Pi 33]

611 The balance may be administered in all seasons, but it should be avoided when the wind blows. [Pi 34]

612 Fire has been prescribed in the cool season, in the cold season, and during the rains; water in Autumn and in the hot season; poison in the cold season and in the cool season. [Pi 35]

[1]NĀRADA:

613 No purgation by means of water should be held in the cool season, no purgation by means of fire in the hot season. The king should not administer poison during the rains, nor the balance when the wind blows. [N 1.259]

[1]Here the words 'cool season' mean: the cold season,

---

610 Caitra. The lunar months referred to in this paragraph correspond as follows. The year normally contains twelve lunar months: (1) Caitra (March-April), (2) Vaiśākha (April-May), (3) Jyaiṣṭha (May-June), (4) Āṣāḍha (June-July), (5) Śrāvaṇa (July-August), (6) Bhādrapada (August-September); (7) Āśvina (September-October), (8) Kārttika (October-November), (9) Mārgaśiras (November-December), (10) Pauṣa (December-January), (11) Māgha (January-February), and (12) Phālguna (February-March). There are six seasons consisting of two months each: (1) + (2) = vasanta (spring), (3)+(4) = grīṣma (the hot season), (5)+(6) = varṣā (the rains), (7)+(8) = śarad (autumn), (9)+(10) = hemanta (the cold season), and (11)+(12) = śiśira (the cool season).

the cool season, and the rains; [2] the words 'hot season' mean: Autumn and the hot season.

[3]In the JYOTIṢA:

614 No person desirous of victory should undergo the test (by ordeal), when Jīva is in the sign of the Lion and when he is in the sign of the Capricorn, when Bhṛgu has set, or in an intercalary month.

615 The wise say, that one should not undergo the test (by ordeal) while Ravi and Guru are bright, when Śukra has set, or when Ravi is in the sign of the Lion.

616 No penance or test (by ordeal) should be performed on the eighth day or the fourteenth day, nor should a test (by ordeal) or the preliminary consecration take place on a Saturday or a Tuesday.

[1] (SELECTION OF ORDEALS ACCORDING TO THE PERSONS SUBJECTED TO THEM.)

Different ordeals should be administered to people of different caste. Thus NĀRADA says:

617
618 The balance should be administered to a brāhmaṇa, fire to a kṣatriya, water to a vaiśya, and poison to a śūdra. [N 1.334cd,35ab]

619 The wise prescribe the holy water to be common to all; for a brāhmaṇa one should avoid poison; the balance is said to apply to all. [NQ 6.6]

[1]KĀTYĀYANA:

620 One should assign fire to a kṣatriya, the balance to a brāhmaṇa, water to a vaiśya; or, alternatively, all ordeals to all (castes) except for poison to a brāhmaṇa. [K 422]

[1] YĀJÑAVALKYA:

613.3 Stenzler [QQ,p.682] draws a distinction between the rules in which the administration of certain ordeals has been forbidden in certain seasons, which have a purely humanitarian background, and the rules in which the administration of the ordeal has been made dependent upon the position of the stars, which he considers to be a more recent extension.

621 The balance has been prescribed for women, children, elderly people, people afflicted by a calamity, lame people, brāhmaṇas, and sick people; for a śūdra, fire, water, or seven yavas of poison. [Y 2.98]

[1]KĀTYĀYANA:

622 When brāhmaṇas act as cowherds, merchants, artizans, actors, servants, and usurers, (to them ordeals) should be administered as if they were śūdras. [K 423]

[1]NĀRADA:

623 The following people should always be tested in (an ordeal of) balance: impotent people, poor people, those turned away from the truth, men afflicted by sorrow, children, elderly people, diseased people, etc. [NQ 6.8]

624 People in distress should not be cleared by means of water; poison is forbidden for bilious people, and the act of fire for people suffering from white leprosy, the blind, those having bad nails, etc. [N 1.255]

625 Those conversant with the prescriptions of the sacred law should never immerse (in water) women, children, sick people, elderly people, and men devoid of strength. [N 1.313]

626 One should never immerse in water people who are indolent, afflicted by diseases, or distressed; when they dive, they die immediately, since they are said to be short of breath. [N 1.314]

627 Even if they have approached (the court) in a case of violence, one should not immerse them in water, nor should one subject them to fire, nor should one clear them by means of poison. [N 1.315]

[1]KĀTYĀYANA:

628 Never should one administer fire to blacksmiths, water to those who live in close con-

---

621 Yava. The middle-sized barley-corn (yava) occurs in the system of weights expounded by M 8.132-137. It is said to be equal to six white mustard-seeds (gaurasarṣapa), and to be one third part of the seed of the guñjā-berry (kṛṣṇala).

nection with water, or poison to those who know <u>mantras</u> and <u>yoga</u>. [K 424abcd]

629 One should, however, always avoid ordeals for men who are afflicted by diseases. [K ?]

630 One should never assign rice to a person observing a vow, nor to one who suffers from a mouth disease. [K 424ef]

[1] [K 424ef] 'A person observing a vow' = a person who is under a vow not to eat rice.

[2] VIṢṆU:

631 Fire should not be administered to people suffering from black leprosy, to incapable people,
632 or to blacksmiths, nor should it be administered in Autumn or the hot season. [Vi 9.25,26]

633 Poison should not be administered to leprous
634 people, to bilious people, or to brāhmaṇas, nor should it be administered in the rainy season. [Vi 9.27,28]

635 Water should not be administered to those suffering from a phlegm disease, to timid people, to those suffering from asthma, or to those
636 living in close connection with water, nor should it be administered in the cold season or in the cool season. [Vi 9.29,30]

637 The holy water should not be administered to
638 heretics, nor should it be administered when the country is afflicted with leprosy or plague. [Vi 9.31,32]

[1] PITĀMAHA:

639 The wise should never administer the holy water to drunkards, women, vicious people, gamblers, or those living as heretics. [Pi 43]

[1] KĀTYĀYANA:

640 When there is no conflict as to place and time, one should assign (the ordeal) according to the circumstances; in the other case it is the rule that one should make another person undergo the ordeal. [K 436]

[1] 'Another person' = a substitute. - [2] 'One should make undergo' = one should make (another person) perform. - [3] 'In the other case' = when the accused is incapable (of doing so himself).

[4] NĀRADA:

641 When the sacred law is adhered to, no ordeal should be administered to persons living under a vow, weak people in distress, diseased people, ascetics, or women. [N 1.256]

[1] KĀTYĀYANA:

642 Murderers of their mother, their father, Twice-born people, their spiritual teacher, children, women, or the king; those connected with a major sin; heretics especially; [K 427]

643 Those wearing particular marks; the intoxicated; those who are conversant with activities by means of _mantras_ and _yoga_; those born of a mixture of castes; those who repeatedly engage in sins; [428]

644 If the king wants to maintain the sacred law, he should take care not to administer ordeals in the case of trials of these very blameworthy persons. [K 429]

645 The king may administer the ordeal to good men appointed by the litigants themselves; if these good men do not want to undergo the ordeal, the case should be proved by their own people. [K 430]

646 An ordeal should not be administered to persons connected with major sins, to heretics especially, or to a man who is continually attached to sin. Thus Bhṛgu. [K 431]

647 The king should prove the sins for which ordeals have been strictly forbidden by means of good men, but he should not release the accused (simply because it has been forbidden to administer the ordeal to him personally). [K 432]

[1] (SELECTION OF ORDEALS ACCORDING TO THE DEGREE OF CERTAINTY.)

A distinction should be made according to the degree of certainty. Thus PITĀMAHA says:

---

644 This verse does not mean that offences committed by these people should not be decided by means of ordeals at all. It only prescribes that no ordeals should be administered to them personally; instead one should act acc. to K 430 (Sca 241).

To those who have been accused with certainty one should assign the balance, etc.; both rice and the holy water should be administered in doubtful cases. [Pi 36]

[1](Notice the term) avaṣṭambha = certainty.

[2]Further:

For those accused under a suspicion of theft the hot gold is prescribed. [Pi 169cd]

[1]KĀTYĀYANA:

In cases of suspicion, in cases where confidence (is to be restored), in cases of reconciliation, always in a lawsuit among heirs, when a transaction is done by a group of people, one should assign no other ordeal than the holy water. [K 415]

[1](Notice the compound) kriyāsamūhakartṛtve = when several persons jointly conduct a transaction.

[2]PITĀMAHA:

In cases where confidence has to be restored, in all cases of suspicion, and where a reconciliation is to be reached, in all these cases one should always administer the holy water for the purgation of the mind. [Pi 37]

[1](SELECTION OF ORDEALS ACCORDING TO THE SUBJECT-MATTER.)

Different ordeals should be administered according to the quantity (involved in the lawsuit).

[2] About this VIṢṆU says:

Now the trial by ordeals. In case of high treason and violence, at his pleasure; in case of a deposit, debt, and theft, according to the measure of the subject-matter. [Vi 9.1-3]

[1](Notice the term) samaya = ordeal. - [2]It means: in case of high treason etc., the ordeal should be 'at his pleasure' = at the discretion of the king.

[3]Referring back to 'a divine trial', BṚHASPATI says:

When there is a mutual disagreement in cases

on debts etc., (a divine trial) should be administered according to the quantity of the subject-matter and with regard to the persons. [B 8.7]

[1]KĀTYĀYANA:

656 When a gift is being denied, one should ascertain its measure; in case of theft and violence one should administer an ordeal even in a minor matter. [K 416]

[1]'One should ascertain' = one should find out the quantity of the object denied. - [2]'Even in a minor matter' means: in case of theft and violence an ordeal should be administered even if the subject-matter is so small that in a case of debt etc., there would be no ordeal for it.

[3]BṚHASPATI:

657 The quantities from a particle of dust up to a kārṣāpaṇa have been explained by Manu; they apply to the ordeal and to punishment. [B 8.28]

658 In all cases poison should be given when a thousand (coins) have been stolen; fire, when a quarter less; water, when a third part less; the balance, when half of it. [B 8.29]

659 When the quantity in issue amounts to four hundred, the hot piece of gold should be given; when three hundred, the ball of rice; and the holy water, when half of it. [B 8.30]

660 When a hundred have been stolen and (the theft) is denied, one should administer the purgation by dharma; to a thief of cows the judges should assign the licking of the ploughshare. [B 8.31]

661 These quantities apply to people of low standing; for people of middle standing they are said to be twice as high; to people of high standing the examiners should assign these (ordeals) when the quantities are four times as high. [B 8.48]

[1][B 8.28] 'From a particle of dust'= those mentioned in the following verse:

---

655 **With regard to the persons**. I.e., acc. to the caste etc., of both parties (Sca 239, Svi 171).

662 The first of measures is the same particle of dust that is seen when the sun enters through a lattice. It is called trasareṇu, [M 8.132]

[1] and the subsequent quantities (mentioned there in the following verses). - [2] The quantities mentioned thereafter (in B 8.29-31) too, should be taken according to this. - [3] (Notice the term) vinaye = punishment.

[4] [B 8.48] 'Of low standing' = low by caste, virtues, acts, etc. [5] The same criteria apply to determine people of middle and high standing.

[6] YĀJÑAVALKYA:

663 Up to a thousand one should not administer the ploughshare, poison, or the balance; in cases of the king and in case of a curse they should be administered in all cases, after due purgation. [Y 2.99]

[1] 'Up to a thousand' means: for less than a thousand. - [2] 'In cases of the king' = in case of high treason or in case of goods belonging to the king. - [3] 'In case of a curse' = in case of being charged with a sin. - [4] 'In all cases' means: even for less than the said amount. - [5] 'After due purgation' = by bathing, etc.

[6] It is said, that these texts about a thousand etc., apply to theft and violence.

[7] VIṢṆU:

664 For all objects one should ascertain their
665 value in gold. If, in this case, it is less than a kṛṣṇala, one should make a śūdra swear
666 with dūrvā-grass in his hand; if it is less than two kṛṣṇalas, with sesamum in his hand;
667 if it is less than three kṛṣṇalas, with silver
668 in his hand; if it is less than four kṛṣṇalas,
669 with gold in his hand; if it is less than five kṛṣṇalas, with earth taken from the track of a ploughshare in his hand. [Vi 9.4-9]
670 If it is half a suvarṇa, the śūdra should un-
671 dergo the ordeal of the holy water. If it is

662.1 This refers to M 8.133-137 where a number of golden, silver, and copper weights have been compared.

more than that, one of (the other ordeals, viz.) the balance, fire, water, or poison, as it is fit. [Vi 9.10,11]

672 To a vaiśya the divine trial should be as prescribed above when the objects are twice that
673 value; to a kṣatriya, when they are thrice
674 that value; to a brāhmaṇa, when they are four times that value. [Vi 9.12-14]

675 To a brāhmaṇa one should not administer the ho-
676 ly water, except when it is done in connection
677 with an agreement for the future. Instead of the holy water one should make the brāhmaṇa swear with earth taken from the track of a ploughshare in his hand. [Vi 9.15-17]

678 When a person's viciousness has been proved before, one should administer one of the or-
679 deals, even in a minor matter. When he is esteemed among good people, this behaviour should not be followed (even) in a major matter. [Vi 9.18-19]

[1][Vi 9.4] The word 'gold' refers to a _suvarṇa_ which is taken as the unit (of gold).
[2][Vi 9.5] 'In this case' = (when expressed) in _suvarṇas_. - [3]The various oaths must be administered to a śūdra by putting _dūrvā_-grass etc., in his hand, respectively.
[4][Vi 9.10] 'Half a _suvarṇa_' means: half the golden (unit). [5] When the goods have the value of half a _suvarṇa_, a śūdra should undergo the drinking of the holy water.
[6][Vi 9.12-15] The same ordeals should be administered to a vaiśya, when the goods have twice this value; [7] to a kṣatriya, when they have thrice this value; [8] to a brāhmaṇa, when they have four times this value. [9] To a vaiśya and a kṣatriya the holy water should be administered when the value of the goods is twice and thrice as high as that for which a śūdra deserves the same holy water, respectively; the holy water should, however, not be administered to a brāhmaṇa.
[10][Vi 9.16] Except when an agreement has been made like this: "We will do so together". [11] In that case the holy water may be administered to a brāhmaṇa, too.
[12][Vi 9.9] (Notice the term) _sītā_ = the track of a plough.
[13][Vi 9.11] 'As it is fit' = in cases of theft and

violence even in a minor matter, but in cases of debts etc., when there is a complaint about (at least) a hundred suvarṇas, etc.

[14] KĀTYĀYANA

680 One should find out the measure of all objects and value them in gold; then one should assign the ordeal that corresponds to that value of gold. [K 417]

681 For a hundred it is said that poison should be given; for a quarter less, fire; for a third part less, water; for one half of a hundred, the balance. [K App 42]

682 For half of that or for one tenth, one fifth, and one seventh of it, drinking the holy water. [K ?]

683 For half of that, the balls of rice should be administered; for half of that, the hot piece of gold. [K App 42']

[1][K App 42] 'For a hundred' means: (for a hundred) suvarṇas. - [2]'For a quarter less' = for goods measuring seventy five suvarṇas. - [3]'For a third part less' = for a hundred suvarṇas minus a third part. - [4][K ?] 'For half of that' = for one half of one half of one hundred. - [5](Notice the compound) daśapañcakasaptasu = drinking the holy water should be administered for one tenth, one fifth, and one seventh part of a hundred.

[6]These small measures refer to people of low standing.

[7]VṚDDHAMANU:

684 After finding out the (corresponding) value in suvarṇas, one should administer poison for a denial of a hundred; fire for a denial of eighty; water for a denial of sixty; the balan-

685 ce for (a denial of) forty; drinking the holy water for a denial of thirty or ten. Thus Bṛ-

686 haspati. (One should administer the same ordeal) for a denial of half of five; rice for half of that.

[1](The expression) triṃśaddaśavināśe vā means: for a denial of thirty or for a denial of ten. - [2](The expression) pañcārdhakasya vā means: (one should administer) the drinking of the holy water for a denial

of half of five or half of that.

[3] This latter group of texts refer to debts etc., and to people of high standing. In this way there is no contradiction with YĀJÑAVALKYA, etc.

[4] The rules about ordeals are not treated at length here, for fear that the book might become too extensive.

- - - - -

(686) [5]SECTION E : O A T H S.

[6]About this MANU says:

687 A brāhmaṇa should be forced to swear by truth, a kṣatriya by his chariot or his weapon, a vaiśya by his cows, seeds, or gold, a śūdra by all kinds of sins [pātaka]. [M 8.113]

688 He should also be forced to touch the head of either his son or his wife. [M 8.114cd]

[1]'He should be forced to swear by truth' = he should be forced to say: "If I have done this, then I shall partake of the sin that originates from the violation of truth". - [2] In 'by his chariot or by his weapon', too, the meaning is that he should be forced to say: "If I have done this, then let these chariots or these weapons of mine be useless". - [3] The same holds good in the other cases, too.
[4]HALĀYUDHA, however, has explained M 8.113 as follows. [5]A brāhmaṇa should say: "This is true", a kṣatriya must touch his chariot or his weapon, a vaiśya must touch either his cow, or his seeds, or his gold, a śūdra must do all this. [6]The word pātaka in this verse is an adjective going with all the oaths mentioned before, [7] since they produce sin when they are performed falsely.

[8]BṚHASPATI:

689 Truth; chariots and weapons; cows, seeds, and gold; the feet of gods and brāhmaṇas; the heads of sons and wives: [B 8.33]

690 These are the oaths which have been prescribed in minor matters; but in case of violence and

---

687 Truth, etc. The various objects by which persons belonging to different castes have to swear should be explained by the fact that the oath is an oath of execration, which is to be sworn by the object which is of the geatest importance to the person who makes the oath [Q,p.35].

687 By all kinds of sins. Vāc does not explain this expression, but his interpretation can be derived per analogiam from the way in which he describes the oaths for the other castes. Just as a brāhmaṇa incurs the sin connected with the violation of truth, for a śūdra the false oath results in his incurring the guilt connected with 'all kinds of sins'.

in case of a curse ordeals are the adequate means of purgation. [B 8.34]

[1]This is to be understood as follows. Since in this text oaths are mentioned as being different from ordeals, and since in the enumeration (of the ordeals) they are not included among the balance etc., they are not actually ordeals, and the rules for ordeals, such as fasting, wearing wet clothes, etc., are not to be associated with them. The only rules (about ordeals) applicable to them are those for the sake of purgation, such as bathing, sipping water, etc.

[2]ŚAṄKHA:

691 He should have them perform the bestowal of (the merits of) their iṣṭāpūrta, and other oaths. [ŚL 265]

[1]MANU:

692 A wise man should not make an oath falsely even in a minor matter, for he who makes an oath in such a way is lost in this world and in the next. [M 8.111]

693 No sin is incurred by (false) oaths with regard to women, marriages, the food of cows, fuel, and protection of brāhmaṇas. [M 8.112]

[1]M 8.112 means: no guilt is incurred by false oaths for the sake of secretly satisfying women, nor in the same way by false oaths for the success of marriages, nor in the same way by false oaths for the food of cows, nor in the same way by false oaths

---

690.1 Sipping water. "Rinsing the mouth, sipping a little water and ejecting it before and after meals, and before and after various ceremonies, one of the permanent and daily practices of the Hindus" (WGJT,p.5). Cf. [HH vol.II,p.315-16 and 652-53].

691 Iṣṭāpūrta is the cumulative spiritual result or merit due to a man's performance of sacrifices and charitable acts [HH vol.II,p.843-45]. The party swears that this merit will be destroyed if he makes a false oath. Cf. 'good deeds': 538, 540.3.

693.1 This rule is applied with a number of restrictions. (1) 'For the sake of secretly satisfying women'. In this case a false oath is allowed only when it has been made for the fulfilment of one's desire. E.g. "I do not love any other woman", "You are the queen of my heart", etc. But if a man swears falsely in a dispute with a woman relating to other matters, he is guilty! (2) 'For the success of marriages'. A false oath is allowed when it is made in order to bring about a marriage even of a friend etc. E.g. "You should not marry another woman". But it is not allowed to try to reach the same purpose by concealing the bride's caste, etc.

for fuel which is to be used for the necessary oblations, nor in the same way by false oaths for the protection of brāhmaṇas.

[2] YAMA:

694 When a man falsely makes an oath in which he refers to the killing of a worm, he would be responsible for the untruth and for the killing

695 (of the worm). Therefore, a man should never willingly swear falsely. [Ya ?]

[1] The word 'worm' is illustrative of living beings in general. [2] The text, thus, means: when one falsely makes an oath saying: "If I have done this, then I have killed a brāhmaṇa", by doing so he actually partakes in (the sin that is the result of) the murder of a brāhmaṇa.

[3] Here ends the (third) Part, on the Trial, in the Vyavahāracintāmaṇi, which has been compiled for Mahārājādhirājā Śrī Harinārāyaṇa, the younger brother of Mahārājādhirājā Śrī Hṛdayanārāyaṇa, the son of Mahārājādhirājā Śrī Darpanārāyaṇa.

- - - - - - - - - -

(695) [4] PART IV : T H E D E C I S I O N.

[5]About this VYĀSA says:

696 The decision is said to be of eight kinds: (1) (2) (3) by valid means of proof, (4) by motives, (5) by customs, (6) by an oath, (7) by a royal decree, or (8) by reconciliation of the parties. [Vy 1.1]

697 The valid means of proof are said to be of three kinds: a document, witnesses and possession. By 'motive' the wise mean inference and logical speculation. [Vy 1.2]

698 Local rules established for a long time are called customs. Oaths differ according to the nature of the case: truth, the balance, etc. In the absence of these the wise prescribe a decision by a royal decree. [Vy 1.3]

[1][Vy 1.2] With the words 'valid means of proof' it is the intention that documents, witnesses, and possession should be counted separately. [2]Logical speculation and inference constitute a single subdivision under the term 'motive'.
[3][Vy 1.3] 'Truth, the balance, etc.' is illustrative of divine trials in general. Thus one obtains the said eight kinds (of decision).
[4]The word 'oath' [śapatha] should be taken figuratively, according to the preceding subdivision.

[5] PROCEEDINGS IN A DECISION BY OATHS AND BY THE HOLY WATER.

[6]About this KĀTYĀYANA says:

698.4 The preceding subdivision. This expression refers to Vāc's statement above (690.1) acc. to which oaths are different from ordeals (cf. also 171.3). In that subdivision ordeals (divya) are nine in number, viz. the balance etc.; the oaths (śapatha) are by truth etc. In Vy 1.3, however, the word śapatha is used for both; therefore it is said that it should be taken figuratively. For other instances of śapatha being used both for ordeals and oaths, cf. 522, 524, 529.6, 538, etc. Cf. [P,p.346-47, note 4].

699 If a man does not within fourteen days suffer a serious misfortune caused by the king or by fate, he should be known as cleared in the oath. [K 463]

[1]'A misfortune' = a calamity. - [2]'Serious' = causing very much pain.

[3]With regard to the administration of the holy water, VIṢṆU says:

700 A man should be considered impure, if within two weeks or even three weeks he is detected to suffer a disease, fire, the death of a rela-
701 tive, or also apprehension by the king; he should be considered cleared in the other case. [Vi 14.4,5ab]

[1]PITĀMAHA:

702 A man is a sinner if he is detected to undergo an alteration within three days, seven days, or even two weeks. [Pi 161]

703 This can be ascertained only when a disease, fire, or the death of a relative happens to him alone and not to all people. [Pi 162]

[1]KĀTYĀYANA:

704 If the accused suffers a reverse due to fate within three weeks, one should diligently force him to pay the subject-matter of the case and a fine besides. [K 456]

705 If a disease, fire, or the death of a relative befalls him only and not all people, he should pay the debt and a fine. [K 457]

706 The diseases of mankind due to fate are: feverish diarrhoea, blisters, pain in the deep-set bones, an eye-disease, a throat-disease, madness, a head-disease, and a fracture of the arm. [K 458]

[1][K 456] 'A reverse due to fate' = a disease, the death of a relative, etc.

[2]K 457ab means: a disease etc., which afflicts the whole country and kills (many people) is no indication of defeat, but only one that comes up after the oath and that is peculiar to the accused.

[3]With regard to the administration of an oath, NĀRA-

DA says:

707 A wise man should not accuse a person who undergoes a great alteration after a fortnight, since then the fixed time has elapsed. [N 1.331]

[1]HALĀYUDHA: The different periods of three days, etc., in these quotations refer to brāhmaṇas, etc., respectively.
[2]The PĀRIJĀTA: The different periods of three days, etc., are directly proportional to the sharpness of the particular bathing water of the deity which one has drunk.
[3]The PRADĪPA: The three days apply when place and time are favourable and when the subject-matter is of high quality; [4]the alternative periods of seven days and (more) are applicable according to the gradual deterioration of these.

[5]All this, except the seven days, three days, etc., is common (to the ordeal of the holy water and) to oaths, since their purpose is identical.

[6]But when the accused is put in the right, the plaintiff himself should be punished. Thus KĀTYĀYAṆA says:

708 When a person accused through the haughtiness (of the plaintiff) has cleared himself by the holy water, the righteous king should force the complainant to pay the plaint-amount together with a fine; he should respectfully treat the person who has cleared himself by means of the ordeal. [K 454]

[1]Here the words 'holy water' and the word 'ordeal' are illustrative statements. [2]They actually mean the (accused person's) state of having liberated

---

707.1 Hyu's interpretation is as follows. If the person who has undergone the ordeal of the holy water suffers one of the said calamities, he is considered defeated, if this calamity occurs: (1) to a brāhmaṇa, within three days (702); (2) to a kṣatriya, within one week (702); (3) to a vaiśya, within a fortnight (700, 702); (4) to a śūdra, within three weeks (700,704).

707.5 In other words: the rules prescribed for the ordeal of the holy water are also applicable to oaths, with one exception: in the case of the ordeal of the holy water different periods have been mentioned during which the accused should be watched (cf.700,702,704), whereas only one period has geen given for the oath.

himself (from the accusation) in general, since the motive is the same (in all cases).

[3]About the fine for both the winner and the loser, KĀTYĀYANA says:

709 He who has cleared himself should be forced to pay fifty; he who has not should be subjected to a fine. [K 459]

[1]'Fifty' = (fifty) paṇas.

[2]THE SAME AUTHOR further distinguishes the fine for the loser as follows:

710 In case of poison, water, fire, the balance, holy water, rice, and the ordeal by the hot piece of gold, he should inflict fine on the defeated according to the following gradation:
711 a thousand, six hundred, five hundred, four, three, two, and one hundred, and less. [K 460,461]

[1]'The defeated' = the loser. - [2]'Thousand, etc.'= (thousand, etc.) paṇas.

[3]THE RELATIVE WEIGHT OF THE DIFFERENT KINDS OF DECISION.

[4]About this NĀRADA says:

712 Legal procedure has four feet: (1) sacred law, (2) positive law, (3) custom, and (4) the royal decree; the following overrules the preceding. [NMā 1.10]

---

709 The fact that the winner too, should be forced to pay fifty paṇas has been interpreted in various ways. (1) Acc. to some, the fifty paṇas must be paid by way of wages but not by way of punishment (Mra 132). From this interpretation it has been derived, that this payment corresponds to the modern court fee to the state for the services of the judge etc. Cf. Kane K tr., p.206, note; [AA 2, p.129]. (2) Acc. to others this punishment of the victorious party in an ordeal only applies in the case of a procedure attended with a wager, and it is always in the nature of a fine (Svi 219-20). Whatever the correct interpretation may be, the reason behind the fact that a certain amount is to be paid by the winning party must be one which is peculiar to ordeals only. Because of the loss of K it is not possible to read the verse in its original context and to be sure of its original field of application. It is not unlikely, that the verse applied to the case in which one party undergoes the ordeal whereas the other party is willing to undergo punishment if he is defeated (cf. Y 2.96 = Vyci 589). If the former proves to be cleared, he should, nevertheless, pay fifty paṇas, since the ordeal had to be arranged at his request.

[1] 'The following overrules the preceding' means: among sacred law, positive law, custom, and the royal decree, each following one overrules the one preceding it.

[2] (1) (Sacred law.)

BṚHASPATI:

713 If a case has been duly investigated, decided in accordance with circumstance, and examined by means of oaths, it should be known as a decision by the sacred law. [B 9.3]

714 If the defendant confesses, such decision is (one type of) sacred law; or if he is duly cleared by ordeals, this is called a second type (of sacred law). [B 9.4abc5d]

[1] Thus, the decision called 'sacred law' is of two kinds.

[2] (2) (Positive law.)

Further:

715 If a decision is made by merely basing oneself on the prescriptions, this should be known as positive law; by it sacred law is excelled. [B 1.19]

[1] That means: 'by it' = by the decision called 'positive law', 'sacred law' = the decision called 'sacred law', 'is excelled' = is superseded.

[2] As to how far positive law supersedes sacred law, KĀTYĀYANA says:

716 If for a particular case a proper ordeal is wanting, sacred law is superseded by positive law, but under no other circumstances. [K 39]

[1] That means: a decision based on an improper ordeal is superseded by positive law.

[2] (3) (Custom.)

BṚHASPATI:

717 If a decision is made according to the approval [anumāna] by local rules and according to what has been approved [anumata] by merchants, positive law is superseded. [B 1.20]

[1] 'Merchants' = merchants belonging to (the same) town. - [2] (The substantive _anumāna_ has to be taken

with the adjective anumata, too.) The grammatical connection is as follows: ' and according to the approval [anumāna] of the practices approved [anumata] by merchants'.
[3] That means: this type of decision called 'custom' supersedes the decision called 'positive law', which latter follows the prescriptions of a general character.

[4] (4) (Royal decree.)

KĀTYĀYANA:

718 When kings consider a particular custom to be contrary to equity [nyāyataḥ], in the same way this custom should be annulled by a royal decree. [K 42]

719 If the following one which this prescription (of N Mā 1.10) has said to supersede the one preceding it wrongly supersedes it, then the sacred law would be violated. [K 43]

[1] K 42 means: the custom which is contrary to equity is to be annulled by a royal decree.
[2] Another explanation of K 42 would be this. The suffix °taḥ in nyāyataḥ is applicable to all grammatical case-endings; [3] that means, that legal procedure is also to be decided by a royal decree when two principles of equity or two prescriptions (of positive law) are (mutually) inconsistent.

[4] PROCEEDINGS FOLLOWING AFTER THE DECISION.

[5] About this NĀRADA says:

720 (1) Even one who confesses of his own accord, (2) even one denounced by his own nature, (3) even one defeated in a regular trial, - after that each of these is entitled to a declaration by the judges. [NMā 2.41]

721 After he has obtained such a declaration of theirs, the king should punish him according to the prescriptions. [NMā 1.43ab]

[1] That means: (1) one who has himself accepted his defeat; [2] (2) one who has been declared a loser through such indications as his shaking, perspiration, change of colour, etc.; [3] (3) one whose cause has turned out a bad one through a trial with an ordeal, etc.; in other words: one who has been defeated (in

such a trial), - [4] 'after that' each of these has a right to a joint declaration of the judges: "This person has been defeated".

[5] YĀJÑAVALKYA:

722 One proved guilty in a (reply by way of) denial [nihnava] should pay the disputed amount (to the plaintiff) and an equal amount to the king (as a fine); one who is guilty of a false accusation obtains (a fine) twice as high as the amount mentioned in the plaint. [Y 2.111]

[1] (Notice the term) nihnava = a denial. - [2] 'Proved guilty' = one who has been forced to confession by means of witnesses, etc.

[3] MANU:

723 If a man extricates himself in a certain matter and is, then, proved guilty by means of evidence, he should be forced to pay that matter to the creditor and (to the king) a minor fine according to his (financial) capacity. [M 8.51]

724 (1) One who denies a certain matter, and (2) one who speaks falsely in a particular case, - both should be punished by the king with a fine twice that amount, since they do not know the sacred law. [M 8.59]

[1] [M 8.51] 'Extricates himself' = produces a reply of denial. - [2] 'By means of evidence' = on the authority of witnesses, etc.

[3] M 8.59 means: (1) a debtor who conceals a certain matter, and (2) a creditor who falsely accuses with regard to particular goods, - if they have indulged in a lawsuit disqualified by malice, both of them should be forced to pay a fine twice as high as the goods that are the object of the lawsuit. [4] Thus it is understood, that the 'minor fine according to his (financial) capacity' (in M 8.51) applies when there is no disqualification by malice, viz. in case of a denial through forgetfulness, etc.

[5] The different fines mentioned in M 8.51,59, viz. equal, double, or a minor one, should be applied according to the caste, age, capital, behaviour, etc., of the person guilty of the denial.

[6] SOME say, that these different fines have reference to (cases in which there is) a taint of malice, a grave taint of malice, (and a minor taint of mali-

ce), respectively.
[7] Thus YĀJÑAVALKYA says:

725 He should inflict punishment on those who deserve it, taking into consideration the offence, the place, the time, the capacity, the age, the act, and the capital. [Y 1.368]

[1] Also BṚHASPATI:

726 In this case punishment is inflicted according to the offence. [B 9.2cd]

[1] He who produces a reply of confession should be fined with half the fine that applies to him who denies in the other (kinds of reply). Thus VYĀSA says:

727 When the defendant instead of denying confesses of his own accord, this should be known as a confession; the fine is said to be half (that applicable in case of denial). [Vy 1.115]

[1] About the punishment of śūdras for falsely accusing Twice-born people, NĀRADA says:

728 If members of the śūdra-caste falsely accuse Twice-born people, the king should cut off their tongues and impale them. [NMā 2.37]

729 If a man denies a plaint containing several items and he is found out guilty with regard to one part, the king should force him to give back all of them; an object that was not reported (in the plaint) can, however, not be recovered. [Y 2.20]

[1] HALĀYUDHA: That means: if the creditor notes down (in the plaint) different items, gold, silver, copper, etc., saying: "You owe me all this", and the accused denies all of them, he should be forced to pay all items of the plaint as soon as only one part of them, gold or silver, has been proved by witnesses. [2] But the accused should not be forced to give back an object which is claimed only after the ascertainment of one part whereas it had not been mentioned at the time of the plaint.

724.6 This interpretation is also referred to in the contemporaneous Dvi, where it has been ascribed to Vyra.

[3]NĀRADA:

730 If the defendant denies all items of a plaint containing several and he is proved guilty with regard to one part of them, it is just that he should pay the other part too. [N ?]

[1]Both texts (Y 2.20 and N ?) either refer to such objects that are mutually and invariably connected, [2]for they are based on a principle of equity, [3]or they refer to lawsuits attended with a wager such as: "If one portion can be proved, I will give everything". [4]Thus YĀJÑAVALKYA says:

731 When a lawsuit was attended with a wager, one should force the loser to pay a fine and also his own wager, and the goods themselves to their owner. [Y 2.18]

[1]'His own wager' means: the wager which the party himself had proposed.

[2] THE PROCLAMATION OF THE WINNER.

[3]About this BṚHASPATI says:

732 When his statement has been proved, when he has been honoured by the chief judge etc., and when he has received a certificate of the decree, the party is publicly proclaimed the winner. [B 9.21]

[1]KĀTYĀYANA:

733 After the (victorious) party has been respectfully treated he should be put in possession of the subject-matter proved, and the king should give him a document connected with that case. [K 262]

[1]Further:

734 If a document would be refused and if the

734-736 The group of three verses attributed to K occurs in only one other nibandha, viz. Vka 266, which must have been the (immediate or mediate) source for Vyci. Because of their being vaguely worded and because of no comm. being available, the purpose of their being quoted here can only be inferred from the title of the paragraph in which they occur. K 264cdef has already been quoted above (198), and it has been said there that the term paścātkāra applies to the certificate of the

judge would destroy it, there is no doubt that the act of paścātkāra would also be rejected. [K ?]

735 If a party rejects the probandum by means of real evidence, in that case there will be a paścātkāra; it is not allowed in all kinds of trial. [K 264cdef]

736 The kings should grant a paścātkāra in only these cases in which slaves, women, or draughtsmen of land, houses, or gardens are defeated. [K ?]

[1] Paścātkāra = the act following after the decision, viz. the certificate of the decree, etc.
[2] 'Evidence' = witnesses, etc.
[3] 'In only these cases' is an illustrative statement, [4] since the learned also prescribe it in other cases.

[5] REVIEW OF JUDGMENT.

[6] MANU:

737 Wherever a case is tīrita and anuśiṣṭa, it should be considered to be done according to the sacred law and one should not avert it again. [M 9.233]

[1] Tīritam is the inflected form of the participle in °ta of a root occurring in the curādi-class (= the verbal roots of the tenth declension of the DHĀTUPĀṬHA): "The roots tṝ. and pṝ. mean the accomplishment of an act". [2] Thus a case is tīrita when it is brought to an end after the decision.
[3] Anuśiṣṭa = stated by witnesses, etc. - [4] 'Whatever' = in the court of a village, etc.
[5] So far the explanation according to LAKṢMĪDHARA, etc.

---

decree granted after a trial in which evidence has been offered and examined(, as against jayapattra in all other cases). If 734 is to be interpreted accordingly, it must refer to a cause in which the evidence produced has been rejected ('a document' should be illustrative of all kinds of evidence), with the result that the certificate of the decree will be a jayapattra but not a paścātkāra. In order to have 736 fit into this scheme, Vyci (and Vka as well) have to explain it as merely illustrative but not exhaustive.

737.4 I.e., not only in the court presided over by the king but also in the other courts which have been referred to above, cf. 29 etc.

[6]In ANOTHER BOOK, however, it is said: The object of the investigation is tīrita and anuśiṣṭa only when the witnesses, etc., are disqualified, but not otherwise. [7]Thus KĀTYĀYANA says:

738 When an untrue thesis is decided to be true by the judges only, it is tīrita; it is called anuśiṣṭa when such a decision is made by the malice of the witnesses. [K 495]

[1]When, however, the defeated party thinks that the case, though tīrita and anuśiṣṭa, is not in accordance with the sacred law, and he appeals to the court again, the case may actually be reconsidered once more, on the condition that the defeated party agrees to pay a fine twice as high as the one originally connected with the lawsuit (in case he would be defeated again). Thus NĀRADA says:

739 If (a litigant) thinks that his case has been tīrita and anuśiṣṭa against the sacred law, it may be taken up again if he agrees to a double punishment. [N Mā 1.65]

[1]The fact that the sacred law was violated is an essential feature (for the admission of a review).

[2]When, on the other hand, the way in which the case has been concluded is a result of (the party's) own conduct, a review is impossible. Thus THE SAME AUTHOR says:

740 A review is possible for those who have been defeated by witnesses or judges on account of disqualification; the rule about review does not apply for those whose cases have been concluded through their own behaviour. [NMā 2.40]

[1]'A review is possible for those who have been de-

737.6 No OTHER BOOK is known to us to have expounded this theory, the more because the reading °dauṣṭyāt is not found in any known nibandha. It has been generally held that a case is called tīrita when it is decided by the judge only without the interference of witnesses; it is called anuśiṣṭa when it is decided upon the depositions of witnesses (MNda 9.233, Sca 301-02, Pdha 213, Vta 231).

739.1 An essential feature. The prakāra is the quality which causes a thing to be what it is and without which it would be different. Indian logicians say, that correct knowledge of a thing (viśeṣya, lit. the thing to be qualified) is the apprehension that this thing has a particular prakāra among its characteristics (viśeṣa, lit. qualifier). The object may have many viśeṣas, but of these the prakāra is the only essential and indispensable one. Cf. IMSNL,p.43; Tsa notes,p.180.

feated by witnesses or judges' means: the cases of those who have been defeated by the deposition of witnesses or by the decision of judges may be introduced again. - [2]'On account of disqualification' means: when these witnesses or judges have been disqualified. - [3]'Those whose cases have been concluded through their own behaviour' means: those who have been defeated because they themselves accepted defeat through their own way of acting, e.g., by telling mutually inconsistent things, etc. - [4]'The rule about review does not apply' means: the legal procedure cannot be instituted again.

[5]On the same point BṚHASPATI says:

741 The arguments of the defeated party are accepted when he has been defeated (1) because he did not produce a reply due to his having fled, and (2) inasmuch as he based (his reply) on a different plaint; they are not accepted, however, when he has been defeated through his own words. [B 9.22]

[1]What is meant here is this: [2]when a case has been investigated according to the sacred law by undisqualified witnesses and judges, but it has been decided wrongly at the party's desire only, it cannot be investigated again even if he agrees to a double punishment. [3]Arguments: (1) it would be inconsistent with M 9.233; (2) it would lead to a _regressus ad infinitum_.
[4]But a review _is_ possible, when the case has been decided with disqualified witnesses or by disqualified judges out of greed, negligence, etc., if such disqualification can be established by valid means of proof, [5]as YĀJÑAVALKYA says:

742 When the king has reinvestigated cases that had been wrongly investigated before, he should punish the judges together with the winning party with a fine twice as high as (the subject-matter of) the lawsuit. [Y 2.305]

[1]Also NĀRADA:

743 A case deserves to be reviewed (1) when it has been investigated without witnesses, (2) when it has been concluded in the wrong way, and (3) when it has been investigated by people who did

not reach a consensus of opinion. [NQ 1.14]

[1] Further:

744 After deciding the case with the help of several brāhmaṇas conversant with the prescriptions of the sacred law, he should punish the victorious party as well as the disqualified judges in the original case. [B 9.24]

[1] The word 'judges' also implies a reference to the witnesses.

[2] Also YĀJÑAVALKYA:

745 He should set aside legal procedures that have been completed by force or fraud. [Y 2.31ab]

[1] Consequently, when the defeated party does not accept the case, though it has been fully decided, but requests a review referring thereby to a non-obvious disqualification on the part of the witnesses etc., the disqualification only must be investigated immediately after (the defeated party) has agreed to a double fine. [2] And when the disqualification has been proved, one may again institute a truthful investigation of the lawsuit itself without requiring a double fine. According to the essential meaning expressed in the verse of YĀJÑAVALKYA (quoted before):

746 When the king has reinvestigated cases that had been wrongly investigated before, he should punish the judges together with the winning party with a fine twice as high as (the subject-matter of) the lawsuit, [Y 2.305]

[1] the double fine agreed to by the (new) plaintiff should be recovered from the judges in case their disqualification has been established, [2] since it is a necessary duty of the king to prevent people from being excessively addicted (to injustice), [3] as NĀRADA says:

747 When a legal procedure has been wrongly investigated, that punishment should be inflicted on the judges; indeed, nobody keeps to the right path without punishment. [NMā 1.66]

[1] Therefore, the words 'his case may be taken up again' (in NMā 1.65) mean: a legal procedure may be instituted again after a truthful investigation of

the disqualification of the defeated party's witnesses and judges. [2] This is right: (the condition for review mentioned in N Mā 1.65, viz.) the fact that a case has been tīrita and anuśiṣṭa against the sacred law, which two acts are effected by the judges and the witnesses, refers to the disqualification of these two only and to nothing else. [3] That is the reason why a truthful examination (of their disqualification) is appropriate.

[4] YĀJÑAVALKYA:

748 When a person, though regularly defeated, thinks that he is not, and when he is again defeated in the court (during a review), he should be forced to pay a double fine. [Y 2.306]

[1] That means: when a person, though truly defeated, thinks that the investigation was incorrect since he suspects the true witnesses etc., to have been disqualified, and when this disqualification on being examined is found not to be true, he should be forced to pay a fine twice as high as the goods that constituted the subject-matter of the lawsuit.

[2] But when a minister or the chief judge is disqualified, the fine should not be twice as high (as the subject-matter of the lawsuit), [3] but it should be a thousand. Thus MANU says:

749 When ministers or chief judges do not accomplish their task properly, the king himself should perform it and force them to pay a thousand. [M 9.234]

[1] 'A thousand' = (a thousand) paṇas, according to the text of VIṢṆU:

750 The lowest amercement amounts to two hundred and fifty paṇas, the middlemost to five hundred, the highest to a thousand. [Vi 4.14]

[1-2] All this can be summarized as follows. [3] A reinvestigation is possible only when one suspects the previous investigation to be incorrect. [4] And even then, beforehand the defeated party has to agree to

---

749.1 Vāc's reasoning is as follows. When a fine is said to be a thousand, that means: the highest amercement (cf. note 401), and there paṇas are said to be the unit.

a double fine. [5] Subsequently, if in the course of the investigation he succeeds in proving the disqualification of the witnesses etc., which he referred to, the fine is inflicted on the witnesses, etc., only, and the lawsuit is reinvestigated. [6] If he does not succeed, however, the fine is inflicted on the defeated party himself, and there is no reinvestigation at all.

[7] ANNULMENT OF ACCOMPLISHED ACTS.

[8]About this MANU says:

751 If in any lawsuit whatsoever false evidence has been delivered, the case should be annulled and, though accomplished, it should be considered non-accomplished. [M 8.117]

752 (The king) should annul any transaction in which an object has been pledged or sold maliciously, in which an object has been maliciously given or accepted, and wherever he detects fraud. [M 8.165]

[1](Notice the term) yoga = malice. [2]It, thus, means: the king should annul the acceptance of a pledge, etc., which has been accomplished with this. - [3](Notice the term) upadhi = fraud. - [4] Here pledge, etc., are illustrative statements; [5] other transactions than these should also be annulled (if accomplished with malice or fraud).
[6]HALĀYUDHA: Yoga means that which destroys confidence; he should annul sales, etc., which have been accomplished with this.

[7]Further:

753 Anything given by force, anything possessed by force, and anything written by force, - all acts accomplished by force have been declared non-accomplished by Manu. [M 8.168]

[1]NĀRADA:

754 A transaction among women, at night, outside

---

753 These are only meant as examples. The actual sense is that all transactions effected by force should be declared void (MMdhā 8.168). Cf. 752.4-5.

754 Transaction. In this verse and in the following ones (756,757) "the term

the village, in a house, or among enemies, though accomplished, must be done over again. [NMā 1.43]

[1]Further:

755 Even if a plaint has been well established, it is not valid when it transgresses a definite law of common practice. [NMā 2.15]

[1]When a plaint is produced in which a definite law of common practice is transgressed, it is not valid even if it has been well established, and even if it has valid means of proof such as documents, etc. [2]The proposition expressed by it should not be put into effect. E.g., when somebody raises the following plaint against a person who has a son or grandson: "He has given his entire property to me".

[3]MANU:

756 A transaction does not succeed when it has been effected by a madman, one intoxicated, a subordinate, a child, an old man, or one not connected. [M 8.163]

[1]'A subordinate' = a slave. - [2]'One not connected' = one who has no claim.

[3]YĀJÑAVALKYA:

757 He should annul transactions that have been effected by force or by fraud, as well as those accomplished by women, at night, inside a building, outside, or by enemies. [Y 2.31]

[1]'Outside' = beyond the appropriate sphere of common practices.

[2]NĀRADA:

758 In the textbooks those conversant with the prescriptions of the sacred law declare non-accomplished any transaction accomplished by a child or by a dependent person. [N 1.39]

759 They even call non-accomplished the transaction accomplished by an independent person who is in an unnatural condition; for such reasons he is

---

vyavahāra is synonymous with kārya, i.e., all such transactions as gifts, deposits, sales, etc., as well as the evidence (documents, etc.) connected with them" (MMdhā 8.163).

a dependent. [N 1.40]

760 By people who are in an unnatural condition one should understand those who are under the influence of love or anger, the diseased, those tormented by fear or misfortune, and those seized by passion or hatred. [N 1.41]

761 Further, a transaction accomplished by a slave is said to be non-accomplished except when it has been done at the order of his master; a slave is not his own master. [N 1.29]

762 And they declare non-accomplished the transaction accomplished by the son against the wish of his father; a slave and a son are equal in this respect. [N 1.30]

[1][N 1.39] The fact that 'a child' is mentioned separately although it is already included in the words 'an independent person', goes to show that the child is not independent even in the absence of his parents. [2]This does not apply to transactions done for the maintenance of the family, [3]according to M 8.167 to be quoted below.

[4][N 1.40] 'Who is in an unnatural condition'. Prakṛti is one's natural condition; [5]aprakṛtiṃ gataḥ means: he who does not live in a natural condition.

[6][N 1.30] 'Against the wish' means: against the father's wish = (against) the father's pleasure.

[7]KĀTYĀYANA:

763 A gift, a pledge, and a sale of fields, houses, or slaves, do not attain validity if they are accomplished by dependent people, and as long as they have not been assented to. [K 467]

[1]'As long as they have not been assented to' = as long as they have not been approved, [2]scil., by an independent person.

[3]NĀRADA:

764 They say, that acts accomplished by women have no validity in normal circumstances, especially gift, mortgage, and sale of houses and fields. [N 1.26]

765 The same acts are valid, when they are approved by the husband, by the son in the husband's absence, or by the king in the absence of the husband and the son. [N 1.27]

766 An act is valid when it is accomplished by the

eldest and leading member of the family who lives in a natural condition; it is not, when it is accomplished by a dependent person. [N 1.42]

[1] [N 1.26] By the words 'in normal circumstances' it is meant that acts accomplished by women <u>are</u> valid when they are meant to counteract a calamity.
[2] [N 1.27] In the words 'in the absence of the husband and the son' the word 'son' implies a reference to the son of a co-wife. [3] So, it should be interpreted as follows: the king in the absence of these (three).

[4] DEFINITION OF INDEPENDENT AND DEPENDENT PERSONS.

[5] About this NĀRADA says:

767 Independence is said to abide in the senior person; seniority is established by virtues and age. [N 1.31cd]

[1] Further:

768 Dependent are all subjects, independent is the king; the student is considered to be dependent, the teacher enjoys independence. [N 1.33]

769 Dependent are all women, sons, slaves, and the household; the householder is independent towards the property that has come to him by inheritance. [N 1.34]

770 Up to his eighth year the child is equal to an embryo, and up to his sixteenth year the boy is called a <u>poganda</u>. [N 1.35]

771 After that he is of full legal age and independent in the absence of his parents; as long as they are alive he is dependent even if he attains a high age. [N 1.36]

772 Of both (parents) the father is the leading member, since it has been shown that the seed is more important (than the field); in the ab-

---

772 <u>The seed is more important (than the field)</u>. This expression refers to a passage in M which can be rendered as follows: "(9.33) By the sacred tradition the woman is declared to be the soil, the man is declared to be the seed; the production of all corporeal beings (takes place) through the union of the soil with the seed. (9.35) On comparing the seed and the receptacle (of the seed), the seed is declared to be more important; for the offspring of all created beings is marked

sence of the progenitor, the mother; in the absence of the latter, the eldest son. [N 1.37]

[1] [N 1.37] 'Both' = (both) parents.

[2] This statement of independence as against dependence does not serve a spiritual purpose, but it goes to show that the king should annul any act, though accomplished, by a dependent person without the approval of the respective independent person, [3] as has been noted by NĀRADA in his paragraph on the annulment of accomplished acts. [4] He in fact makes this clear as follows:

773 All these are always independent with regard to certain dependent people; they are said to be their masters as to ordering, releasing, and selling them. [N 1.38]

[1] [N 1.38] 'These' = the king, etc., mentioned above.

[2] Because of the words 'in the absence of the latter, the eldest son' (in N 1.37), the expression 'in the absence of his parents' (in N 1.36) should be understood as: in the absence (of his parents and) of the eldest son, etc., too.

[3] Although by the words 'in the absence of the progenitor, the mother' (in N 1.37) the mother's independence and the son's dependence have been clearly stated, nevertheless in accordance with the words of NĀRADA (1.27): 'by the son in the husband's absence', the king should annul any act that has been accomplished by the mother, though independent, without the approval of the son though the latter be dependent. [4] One should not raise the objection, that this approval of the son would serve a spiritual purpose. [5] Indeed, since in the father's absence his property goes to the son, the latter's approval actually has a practical purpose.

[6] ŚAṄKHA-LIKHITA:

774 Those who have a father are dependent. [ŚL ?]

[1] As long as the grandfather is alive, the father is as dependent as his son. [2] Consequently, the father's acts only succeed with the grandfather's approval, and in no other case.

----

by the characteristics of the seed. (9.38) In this world seeds of different kinds, sown at the proper time in the land, even in one field, come forth (each) according to its kind. (9.39) The rice (called) vrīhi and (that called) śāli, mudga-beans, sesamum, māṣa-beans, barley, leeks, and sugar-cane, (all) spring up according to their seed" (M tr. Bühler, p.333).

[3]Even a younger brother is dependent upon his elder brother only as long as their property is undivided, but not also when it has been divided. Thus KĀTYĀYANA says:

775 A father is dependent as long as his father is alive, and so are a brother, a brother's son, a younger brother as long as the property is undivided, a slave, and a servant. [K 466]

[1] HĀRĪTA:

776 A woman is not entitled to independence in matters of gifts, property, especially acts of piety, receipts, or expenditure. [H 2.15]

[1] Sometimes even those people have the authority to perform a certain act, although they are not independent. Thus KĀTYĀYANA says:

777 All these people have the authority to buy and sell articles of trade, if they have been permitted to do so before entering the transaction. [K 468]

778 In the same way a brother, a brother's son, and a son have the authority to (buy and sell) fields, etc., if they have been authorized to perform these acts by their seniors while the latter have gone abroad. [K 469]

779 Everybody who has been authorized to a certain act is his own master with regard to it; his master cannot annul the act accomplished by him. [K 470]

[1]About the authorized person BṚHASPATI explains as follows:

780 A man who has been entrusted by his master with receiving, spending, or guarding goods, with usury, agriculture, or trade, is called an authorized person. [B 9.29]

781 All acts performed by him are valid, be it gain or loss, receipts or expenditures; whether in the country or abroad, the master cannot object to them. [B 9.28]

[1] MANU:

782 Even a subordinate may perform transactions for the benefit of the family; whether in the

country or abroad, the elder person cannot rescind them. [M 8.167]

[1]'A subordinate' = a dependent person, a son, a slave, etc. - [2](Notice the term) samācaret = perform. - [3]The sense is, that in such a case one should not even look for the approval of the master. [4]'The elder person' = the independent person, the father, etc.

[5]KĀTYĀYANA:

783 The (father's) power with regard to his son or his son's wives refers to giving them orders; the father has no power to sell or donate his son. [K 471]

[1]SOME say: This text is not inconsistent with the following verse of NĀRADA:

784 They are said to be their masters as to ordering, releasing, and selling them, [N 1.38cd]

[1]for the power as to giving and selling them mentioned here refers to giving and selling them as sons. [2]The general opinion is, that the father has the power to donate and sell his son with the latter's approval, whereas he does not have that power without his approval.

[3]Here ends the (fourth) Part, on the Decision, in the Vyavahāracintāmaṇi, which has been compiled for Mahārājādhirājā Śrī Harinārāyaṇa, the younger brother of Mahārājādhirājā Śrī Hṛdayanārāyaṇa, the son of Mahārājādhirājā Śrī Darpanārāyaṇa.

[4]This completes the Vyavahāracintāmaṇi, which has been composed by Mahāmahopādhyāya Śrī Vācaspati Miśra.

- - - - - - - - - - -

A P P E N D I C E S

Note on the purpose of the Appendices.

APPENDIX A.

Appendix A contains an alphabetical list of the beginnings of all single verses and of all sūtras of the basic texts quoted in Vyci.

APPENDIX B.

Appendix B in the first place offers a complete alphabetical index of all references to other authors and to other works in whatever form these references occur. It subsequently gives a detailed list containing the identification of the quott. from the basic texts. The references have been arranged in the order in which the quott. occur in the basic texts themselves.
Column 1 contains the reference to the printed ed. of the basic text (chapter, verse, etc.) The edd. used for this purpose will be found in the ABBREVIATIONS (cf. p.x-xii). A question mark indicates that the particular quot. is not found in the printed ed.
Column 2 locates the quot. in Vyci.
Column 3 mentions the name of the author or the title of the work under which the text has been quoted in Vyci. Three possible cases should be distinguished. (1) In the majority of cases the name of the author or the title of the work has been clearly and unambiguously indicated. (2) Sometimes, however, the author or the work which Vāc should be considered to have taken the quot. from can be guessed only (e.g., when the quot. has been introduced by the word tathā). In these cases the name or the title is added in parentheses. (3) There are other cases in which Vāc may not have had the intention to ascribe the quot. to any specific author or work, but the fact that it follows after a well identified quot. might create the impression that the quot. has been taken from the same source as the preceding one. Such cases have been indicated by means of the abbreviation "an." followed by the name of the apparent source in parentheses.
Column 4 refers to the page number of Dhko where the text occurs. It is intended as an indirect reference to the other nibandhas in which the same text has been quoted and to the alternative interpretations given there.
Column 5 contains remarks of various kinds.

APPENDIX C.

Appendix C lists the passages from more recent dharmanibandhas where Vyci has been explicitly referred to. The printed nibandhas only have been taken into consideration.

APPENDIX D.

In the Glossarial List technical terms on the subject of legal procedure only have been incorporated. It has not been the intention to index all occurrences of these words. An attempt has been made to list the occurrences which are most significant of the meaning (or meanings) of each term.

- - - - -

A P P E N D I X   A

ALPHABETICAL INDEX OF QUOTATIONS FROM DHARMAŚĀSTRAS, ETC.

व्यवहारचिन्तामणावुद्धृतधर्मशास्त्रादिवचनानां सूचीपत्त्रम्

- - - -

A P P E N D I X B

SYSTEMATICAL INDEX OF QUOTATIONS.

- - - -

MITĀKṢARĀ 118.6 (= YMtā 2.8), 430.3 (= YMtā 2.20), 432.1 (= YMtā 2.20), 470.2 (= YMtā 2.27).

YAMAḤ Cf. infra: Ya.

YĀJÑAVALKYAḤ Cf. infra: Y.

RATNĀKARAḤ 437.6, 464.9, 468.1, 475.2.

LAKṢMĪDHARAḤ (KALPATARUḤ) 737.5 (= Vka 267).

VASIṢṬHAḤ Cf. infra: Va.

VIṢṆUḤ Cf. infra: Vi.

VṚDDHAMANUḤ Cf. infra: vM.

VYĀSAḤ Cf. infra: Vy.

ŚAÑKHA(LIKHITAU) Cf. infra: ŚL.

[SAMPRADĀYAḤ] 427.2, 784.2.

SMṚTISAMUCCAYAḤ 550.1.

SMṚTISĀRAḤ 428.26.

HALĀYUDHAḤ 173.1, 688.4, 707.1, 729.2, 752.6.

HĀRĪTAḤ Cf. infra: H.

- - -

U

?	303	U	342

K

26	54	K	5	
39	716	K	103	
42	718	K	103	
43	719	K	103	
55 abcd	7	K	56	
56	9	K	60	
57	8	K	56	
58	28	K	57	
60	57	K	101	
63	18	K	57	
64	19	K	57	
67	20	K	58	
74	45	K	59	
75	46	K	59	
76	44	K	59	
77	43	K	59	
78	42	K	105	
80	48	K	58	
81	49	K	58	
93	75	K	130	
94	76	K	130	
95	77	K	130	
117	80	K	128	
120	72	K	123	
121	83	K	124	
124	98	K	150	
125	99	K	151	
126	100	K	151	
132	115	K	152	
134	84	K	153	
136	110	an. (B)	153	
137	111	an. (B)	153	
138	113	K	154	
144	526	K	428	
145	119	K	170	
146	120	K	170	
147	123	K	170	
149	126	K	171	
154	121	K	171	
155	122	K	171	
159cd	134	an. (N)	173	=NMā 2.2cd
163	130	K	206	
165	135	K	173	
166	141	K	174	
167	139	K	174	
170	143	K	176	
	183	(K)	176	
174	157	K	177	
188	156	K	176	

189	150	K	179	
190	112	K	179	
	151	K	179	
191	158	(K)	227	
	182	K	227	
193	165	an.	172	=B2.17
		(B)		
197	210	K	207	
206	163	an.	173	=KApp15
cdef		(B)		
211	147	K	226	
214	218	K	227	
218	174	K	229	
219	175	K	229	
221	199	K	228	
	437	K	228	
223	176	(K)	229	=B4.12
				cf.189
225	224	K	230	
226	225	K	231	
227	222	K	230	
228	223	K	230	
229	226	K	231	
232ab	187	K	232	
abcd	228	K	232	
233	219	K	227	
239	221	K	230	
241	216	K	228	
243ab	217	K	228	
244	181	an.	457	=K 411
	587	an.	457	
		(Pi)		
259	192	K	368	
260	193	K	368	
262	733	K	545	
264	198	an.	545	
cdef		(Va)		
	735	(K)	545	
275	314	K	335	
278	313	K	335	=K 380
			370	
298	448	K	372	
299	449	K	372	
			418	
	469	K	372	
			418	
315	202	K	416	
316	488	(K)	419	
321	483	K	416	
323	446	K	370	
			418	
324	486	K	419	
329	481	K	416	

330	495	K	418	
336	527	K	428	
337	535	K	428	
339	169	K	336	
	315	K	336	
341	412	K	336	
352	391	K	337	
353	270	K	332	
354	271	(K)	332	
359	278	K	333	
362	297	K	334	
365	299	K	335	
366	300	(K)	335	
367	301	(K)	335	
380	313	K	335	=K278
			370	
387	388	K	337	
388	320	K	338	
389	321	K	338	
390	322	K	338	
391	389	K	338	
392	397	(K)	340	
394	318	K	337	
	394	K	337	
395	319	K	337	
	395	K	337	
397	432	K	340	
404	280	K	334	
408	436	K	339	
411	181	an.	457	=K 244
	587	an.	457	
		(Pi)		
415	650	K	457	
416	656	K	458	
417	680	K	458	
418	684	vM	458	
419	685	vM	458	
420ab	686	vM	458	
422	620	K	459	
423	622	K	459	
424				
abcd	628	K	459	
ef	629	K	459	
427	642	K	459	
428	643	K	460	
429	644	K	460	
430	645	K	460	
431	646	K	460	
432	647	K	460	
434	604	K	460	
435	605	K	460	
436	640	K	461	
438	608	K	461	

441	568	Y	494	
444	580	K	503	
445	581	K	503	
454	708	K	516	
456	704	K	515	
457	705	K	515	
458	706	K	516	
459	709	K	516	
460	710	K	516	
461	711	K	516	
463	699	K	441	
466	775	K	563	
467	763	K	563	
468	777	K	563	
469	778	K	563	
470	779	K	563	
471	783	K	563	
473	177	(K)	544	
495	738	K	105	
App				
1	16	Ya	106	=N 17.8
			564	
15	163	an.	173	=K 206
		(B)		cdef
42	681	K	459	
42'	683	K	459	
?	164	an.	173	ab =
		(B)		B3.42ab
?	166	an.	173	ab =
		(B)		B2.29cd
?	200	K	-	= NMā
				1.62
?	201	K	-	= NMā
				1.63
?	304	K	-	= N
				1.188cd
?	305	K	-	=N1.190
?	306	K	-	=N1.191
?	390	K	337	
?	396	K	337	
?	413	K	337	= NQ
				5.10ab
?	482	K	416	
?	487	(K)	419	=B 8.37
?.	496	(K)	418	=B 7.29
?	498	K	419	
?	528	K	428	
?	598	ViK	461	=Vi9.33
				=Y 2.97
?	629	K	459	
?	682	K	459	

?	734	K	545	
?	736	K	545	

Kpu

	590	Kpu	470
	591	Kpu	470
	592	Kpu	470

G

12.34	474	G	381
13.1	230	G	235
6	317	G	238
	393	G	238
7	414	G	238
8	415	G	238
13	359	G	429
14	360	G	429
24	417	G	241
25	418	G	241

N

Mā 1				
1	3	N	3	
2	4	N	4	
4	55	N	11	
5	56	N	542	
6	93	N	139	
10	712	N	91	
32	13	N	88	
33	14	N	88	
34	15	N	89	
40	11	N	91	
43	754	N	558	
44	127	N	162	
47	66	N	116	
49	68	(N)	118	
51	67	N	118	
52	69	N	119	
53	70	N	119	
54	71	N	119	
56	94	B	201	=B 2.?
62	200	K	222	
	438	N	222	
63	201	K	223	
65	81	N	548	
	739	N	548	
66	747	N	548	

Mā 2				
2cd	134	an. (N)	161	=K159cd
7	101	N	141	
15	755	(N)	142	
			559	
22	73	N	116	
23	78	N	116	
25	212	N	203	
32	208	an.	204	
33	209	an.	204	
37	728	N	1968	
40ab	439	an.	549	
40	740	N	549	
41	720	N	543	
43ab	721	N	543	
Mā 3				
1	39	N	44	
2	40	N	44	
14	368	(MN)	47	=M 8.95
1				
26	764	N	559	
27	765	N	559	
c	773[3]	N	559	
29	761	N	559	
30	762	N	559	
31cd	767	N	560	
33	768	(N)	561	
34	769	(N)	561	
35cd	475	an.	561	
35	770	(N)	561	
36	771	(N)	562	
37	772	(N)	562	
38	773	(N)	562	
cd	784	N	562	
39	758	N	560	
40	759	N	560	
41	760	N	560	
42	766	N	560	
68	229	N	221	
75	500	N	218	
			402	
76	501	N	218	
			402	
77	471	N	403	
	505	N	403	
78	465	N	403	
	506	N	403	
81	511	N	404	
82	472	(N)	405	
	510	N	405	

85	461	Y	406	
87	462	N	407	
	489[6]	an.	407	
91	453	N	408	
ab	489[3]	an.	408	
93	503	N	410	
93'	454	N	407	
135	441	N	356	
149	248	N	297	
150	249	N	297	
151	250	N	297	
152	251	N	297	
153	260	N	298	
154	261	N	299	
156	296	N	310	
157	273	N	301	
157'	274	N	301	
157"				
ab	279	N	301	
cd	281	N	301	
158	283	N	302	
159	284	N	303	
160	275	N	303	
162	282	N	304	
163	185	N	219	
164	144	N	220	
	184	N	220	
165	207	an.	314	
167	253	N	299	
172	531	N	425	
173	532	N	425	
174	533	N	425	
175	534	N	425	
178	286	N	306	
179	287	N	306	
180	288	N	307	
181	289	N	307	
182	290	N	308	
183	291	N	308	
184	292	N	309	
185	293	N	309	
186	294	N	310	
187	295	N	310	
188cd	304	K	311	
190	305	K	311	
191	306	K	312	
192	265	N	312	
198	316	N	314	
199	358	N	314	
200	339	N	315	
201	340	N	315	
	366	(MN)	315	=M 8.93
203	341	N	315	

204	342	N	316	
205	343	N	316	
207	370	N	316	
208	371	N	316	
209	372	N	316	
210	344	N	317	
211	338	ViN	317	=Vi8.36
212	345	N	317	
213	346	N	317	
214	347	N	317	
215	348	N	318	
216	376	N	318	
217	377	N	318	
218	378	N	318	
219	379	N	318	
220	380	N	318	
221	381	N	319	
222	382	N	319	
223	383	N	319	
224	384	N	319	
226	349	N	319	
227	351	N	320	
228	352	N	320	
229	434	N	320	
232	427	N	321	
d	428[25]	an.	321	
234	428	(N)	322	
235	523	N	222	
			427	
236	524	N	222	
			427	
237	525	N	427	
238	529	N	427	
239	538	N	449	
252	539	N	450	
253	540	N	450	
255	624	N	452	
256	641	N	451	
259	613	N	451	
268cd	596	N	475	
269	588	N	454	
270ab	595	N	454	
283	549	(Y)	477	
			479	
289	562	an.	491	
290	563	an.	491	
310	577	an.	501	
311	578	an.	501	=Pi 144
312	574	an.	502	=Pi 145
313	625	N	452	
314	626	N	452	
315	627	N	452	
331	707	N	514	

334cd	617	N	453	
335ab	618	N	453	
17				
8	16	Ya	90	=Ya ?
			586	=KApp 1
9	17	Ya	90	=Ya?=K?
			549	
			586	
Q1				
4	12	N	-	
5	33	N	-	=Vyl.15
6	60	N	114	=Bl.124
7	61	N	114	=Bl.135
14	82	N	549	
	743	N	549	
Q2				
22ab	167	an.	141	
cd	95	an.	141	
	102	N	141	
Q3				
2	133	N	162	
12	85	N	161	
Q5				
5	361	MN	-	=M 8.88
6	362	MN	-	=M 8.89
7	363	MN	-	=M 8.90
8	364	MN	-	=M 8.91
9	365	MN	-	=M 8.92
10ab	413	K	318	=K ?
11	408	N	323	=M8.108
Q6				
3	594	Pi	454	=Pi ?
6	619	N	453	
8	623	N	452	
?	309	N	-	=Vyl.97
?	310	N	-	=Vyl.96
?	350	N	319	
?	367	(MN)	-	=M 8.94
?	369	(MN)	-	=M 8.96
?	443	N	-	=Y 2.87
?	429	N	542	
	530	N	542	
	730	N	542	

Pi

29	227	Pi	235	
32	609	Pi	464	
33	610	Pi	464	
34	611	Pi	464	
35	612	Pi	464	
36	648	Pi	462	
37	651	Pi	517	
38	586	Pi	462	
39	220	Pi	232	
43	639	Pi	464	
45	601	(Pi)	465	
46	602	(Pi)	465	
51	597	Pi	465	
53	599	Pi	468	
54	600	(Pi)	465	
87	550	Pi	481	
102	551	an.	483	=Vi 10.10cd -11ab
103	552	an.	483	=Vi 10.11cd
126	564	an.	497	=Vi 11.11
127	565	an.	497	=Vi 11.12
129	566	Pi	497	
130ab	567	Pi	497	
cd	569	an. (Y)	498	
131	570	an. (Y)	498	
144	578	an.	505	=Nl.311
145	574	an.	505	=Nl.312
161	702	Pi	517	
162	703	Pi	517	
169cd	649	(Pi)	463	
?	594	Pi	463	=N Q6.3

Pr

?	247	Pr	343

B

1			
17	58	B	17
19	715	(B)	100
20	717	B	100

65	23	B	51	
69	24	B	51	
73	29	an. (K)	54	
76	34	an. (N)	55	
81	26	B	55	
82	27	B	55	
94cd	30	an. (K)	54	
95	31	an. (K)	54	
96ab	32	an. (K)	54	
cd	37	B	53	
97	38	B	53	
98	41	B	53	
102ab	53	B	59	
107	50	B	53	
114	92	B	98	
124	60	N	121	=N ?
135	61	N	121	=N ?
142	74	B	122	
173	162	B	165	
2				
1	87	B	17	
3	59	(B)	17	
	137	B	17	
d	138[10]	an.	17	
4	161	B	165	
5	96	(B)	144	
6	97	(B)	144	
7	94	B	-	=NMā 1.56
8	104	B	148	
9	105	B	148	
10	106	B	149	
11	107	B	149	
12	108	B	149	
13	109	B	149	
14	88	B	144	
15	89	B	144	
17	165	an. (B)	-	=K 193
22	103	B	147	
29cd	166	an. (B)	-	=K ? .
32	63	an. (N)	150	=H 1.39
34	86	B	148	
43	62	an. (N)	150	=H 1.38

3				
1	90	B	147	
2	116	B	165	
4	124	B	165	
5	133	N	166	=N Q3.2
7	159	B	165	
8	160	B	165	
14	138	an. (B)	174	
19	142	B	166	
21	148	B	169	
29	311	B	327	
30	312	(B)	328	
33	211	B	205	
40	213	B	205	
41	214	B	206	
42	215	(B)	209	
ab	164	an. (B)	209	=K ?
4				
3	191	B	224	
6	170	B	224	
7cd	171	B	224	
8ab	171	B	224	
12	189	(B)	229	=K 223 cf.176
5				
1	262	B	325	
c	283[5]	an.	325	
4	232	B	323	
5	233	B	323	
6	234	B	323	
7	235	B	324	
8	236	B	324	
9	237	B	324	
10	238	B	324	
11	239	B	324	
12	240	B	324	
13	241	B	324	
14	242	B	-	=K 375
15	243	B	324	
16	244	B	324	
17	245	B	325	
18	246	B	325	
21	308	B	327	
32	334	B	328	
33	335	B	328	
34	336	B	328	
ab	53	B	328	
35	337	B	328	
42	392	B	328	

43ab	398	B	327
44	425	B	329
45	410	B	328
46	188	B	329
47	411	B	328
6			
2	440	B	363
26	195	B	365 544
27	194	B	365 544
39	447	B	367
52	451	B	367
7			
28	464	B	411
29	496	(K)	414
38	487	(K)	-
39	485	B	413
40	477	B	412
	513	B	412
41	478	B	412
	514	B	412
43	490	B	414
44	491	B	414
46	492	B	414
47	494	B	415
48	517	B	415
49	518	B	415
50	519	B	415
51	520	B	415
52	521	B	415
66	479	(B)	413
	515	(B)	413
67	480	(B)	413
	516	(B)	413
68	522	B	428
8			
3	541	B	454
4	542	B	455
5cdef	543	(B)	455
6	544	(B)	455
7	655	B	457
14	596	B	457
15	606	B	457
16	607	B	457
28	657	B	533
29	658	B	455
30	659	B	455
31	660	B	456
33	172	B	441

	689	B	441	
34	173	B	441	
	690	B	441	
37	487	(K)	-	=K ?
48	661	B	456	
61ab	579	an.	503	

9

2cd	726	B	98	
3	713	B	99	
4abc	714	B	99	
5d	714	B	99	
21	732	B	544	
22	741	B	549	
cd	4667	an.	549	
24	744	an. (N)	549	
28	781	B	562	
29	780	B	562	

10

23	91	B	630	

Bau

1.19

13	353	Bau	242	
14	354	Bau	242	
15	355	Bau	243	

Bhpu

	10	Bhpu	-	

M

8

18	47	M	36	
21	21	M	33	
25	203	M	192	
51	723	M	719	
56	204	an.	194	
57	205	an.	195	
58	206	an.	196	
59	724	M	537	
61	254	M	250	
62	255	M	251	
63	256	M	252	
64	285	M	255	
65ab	252	M	255	
68	259	M	252	
70	307	M	259	
72	302	M	260	
73	276	M	271	
	433	M	271	
74ab	231	M	253	
77	272	M	257	
79	324	M	260	
80	325	M	260	
81	326	M	260	
82	327	M	261	
83	328	M	261	
84	329	M	262	
85	330	M	262	
86	331	M	262	
87	323	M	263	
88	361	MN	263	=NQ 5.5
89	362	MN	263	=NQ 5.6
90	363	MN	264	=NQ 5.7
91	364	MN	264	=NQ 5.8
92	365	MN	264	=NQ 5.9
93	366	(MN)	265	=N1.201
94	367	(MN)	265	=N ?
95	368	(MN)	265	=NMā 3.14
96	369	(MN)	265	=N ?
100	373	M	268	
100'	374	M	268	
101	375	M	268	
102	386	M	268	
102'	387	M	269	
104	416	M	272	
105	420	M	275	
106	421	M	276	
108	408	N	270	=N ?
111	692	M	436	
112	693	M	436	
113	687	M	437	
114cd	688	M	437	
117	751	M	278	
118	298	M	278	
120	401	M	278	
121	402	M	279	
122	403	M	280	
123	404	M	280	
132	662	an.	528	
145	476	M	386	
	512	M	386	
146	497	M	387	
147	473	M	383	
149	493	M	387	
163	756	M	552	
165	752	M	554	
167	782	M	555	
168	753	(M)	556	
390	35	M	37	
391	36	(M)	37	

9

233	737	M	546	
	7413	M	546	
234	749	M	546	

Ya

?	16	Ya	106	=N 17.8 =KAppl
?	17	Ya	-	=N 17.9 =K ?
?	694	Ya	442	
?	695	Ya	442	

Y

1

318	444	Y	349	
319ab	445	Y	349	
359	5	Y	583	
360	6	(Y)	584	
368	725	Y	585	

2

5	64	Y	111	
7	117	Y	159 214	
cd	168	Y	214	
8ab	118	Y	537	
	168	Y	537	
9	131	Y	197	
10ab	132	Y	197	
cd	79	Y	112	
11	722	Y	538	
12	125	Y	160	
17	186	Y	215	
18	430	Y	538	
	731	Y	538	
19ab	152	an.	87	
20	729	an. (N)	539	
22	180	Y	213	
23cd	145	an.	732	
	466	an.	732	
24	463	Y	389	
	507	Y	389	

26	499	Y	397	
27cd	470	Y	397	
	504	Y	397	
28	484	Y	399	
	502	Y	399	
29	489	Y	401	
31	757	Y	557	
ab	745	Y	557	
65	476[2]	an.	745	
68	257	Y	282	
	265[4]	an.	282	
69	258	Y	282	
72ab	264	Y	284	
73	332	Y	285	
74	333	Y	285	
75	385	Y	286	
78	277	Y	287	
80	435	Y	289	
81	405	Y	292	
82	406	(Y)	293	
83	419	Y	294	
87	443	N	352	=N ?
89	442	Y	353	
95	545	Y	444	
96	589	Y	445	
a	181[5]	an.	445	
97	598	ViK	446	=Vi9.33 =K ?
98	621	Y	447	
99	663	Y	448	
100	546	(Y)	472	
101	547	(Y)	472	
102	548	(Y)	472	
103	556	an.	487	
104	558	an.	487	
105	559	an.	487	
106	560	an.	488	
107	561	an.	488	
108	572	an.	499	
109	573	an.	499	
110	582	an.	506	
111	583	an.	506	
112	584	an.	512	
113	585	an.	512	
305	742	Y	547	
ab	746	Y	547	
306	748	Y	547	
?	461	Y	401	=N 1.85

Va

?	196	Va	378	
?	197	Va	378	

Vi

4				
14a	750	Vi	570	
5				
179	51	Vi	26 245	
	407	Vi	26 245	
180	52	Vi	26	
185	458	Vi	382	
186	459	Vi	382	
187	460	Vi	382	
8				
1	266	Vi	244	
8	267	Vi	244	
9	268	Vi	244	
16	422	Vi	245	
17	423	Vi	245	
36	338	ViN	246	=N1.211
38	426	Vi	246	
ab	431	an.	246	
9				
1	652	Vi	443	
2	653	Vi	443	
3	654	Vi	443	
4	664	Vi	430	
5	665	Vi	430	
6	666	Vi	430	
7	667	Vi	430	
8	668	Vi	430	
9	669	Vi	431	
10	670	Vi	431	
11	671	Vi	431	
12	672	Vi	431	
13	673	Vi	431	
14	674	Vi	431	
15	675	Vi	431	
16	676	Vi	431	
17	677	Vi	431	
18	678	Vi	432	
19	679	Vi	432	
22	593	Vi	443	
25	631	Vi	443	
26	632	Vi	443	
27	633	Vi	443	
28	634	Vi	443	
29	635	Vi	443	
30	636	Vi	443	
31	637	Vi	444	
32	638	Vi	444	
33	598	ViK	444	=K ? =Y 2.97
10				
9	553	an.	471	
10cd	551	an.	472	=Pi 102ab
11	551 -2	an	472	=Pi 102cd -103
11				
8	571	Vi	486	
11	564	an.	486	=Pi 126
12	565	an.	486	=Pi 127
12				
7	575	an.	499	
8	576	an.	499	
14				
4	700	Vi	511	
5ab	701	Vi	512	

vM

?	684	vM	-	=K 418
?	685	vM	-	=K 419
?	686	vM	-	=K420ab

Vy

1				
1	696	Vy	235	
2	697	Vy	235	
3	698	Vy	235	
5	22	Vy	63	
15	33	N	64	=N ?
23	114	Vy	156	
24	136	Vy	187	
26	155	an.	188	=H 1.24ef
28	140	Vy	187	
29	178	Vy	234	

30	190	Vy	234	
69	450	Vy	377	
76	467	Vy	421	
	508	Vy	421	
77	468	Vy	421	
	509	Vy	421	
81	457	Vy	422	
83	456	Vy	422	
84	452	Vy	420	
85	455	Vy	422	
90	269	Vy	344	
96	310	N	345	=N ?
97	309	N	345	=N ?
109	424	Vy	346	
115	727	Vy	545	
2				
17	554	Vy	484	
19	555	Vy	484	

?	65	Vy	134	=K 122
?	128	Vy	186	=K 161
?	129	Vy	186	=K 162
?	179	Vy	234	

ŚL

265	691	ŚL	444
328	536	ŚL	425
?	263	ŚL	247
?	356	ŚL	247
?	357	ŚL	247
?	399	ŚL	248
?	400	ŚL	248
?	537	ŚL	425
?	774	ŚL	550

H

1				
23	153	H	185	
24	154	H	185	
abcd ef	155	an.	185	=Vy1.26
29	149	Ħ	233	
38	62	an. (N)	564	=N ? =B2.43
39	63	an. (N)	564	=N ? =B2.32
2				
15	776	H	564	

A P P E N D I X C

REFERENCES TO THE VYAVAHĀRACINTĀMAṆI IN OTHER DHARMANIBANDHAS.

- - - -

64	Vta 197 and YVmi 2.5 read <u>ced rājñe</u>, but it is stated in both texts that MAITHILĀḤ and MIŚRĀḤ read <u>yad rājñe</u>.
136.1-2	Vpra 57 refers to and refutes the distinctive characteristic of the denial as against the other types of reply, as proposed by Vāc.
138.4-7	This passage is quoted freely Vpra 56-57.
138.8-10	Vyci is quoted Vpra 78 in view of the particular meaning given to the term <u>pratyākalita</u> by Vāc.
141.1-27	Vpra 57 first very freely reproduces 141.1-19, then briefly refutes it, and finally in his own words renders 141.20-27 without referring to Vāc again.
141.32-33	Vpra 58 quotes Vāc's distinction between <u>kāraṇottara</u> and <u>prāṅnyāya</u>. He refutes it, and refers to his own distinction mentioned elsewhere (Vpra 61).
141.34-35	Vpra 60 objects to Vāc's threefold subdivision of <u>kāraṇottara</u> as being pointless and not based upon an authoritative text.
144.6	Vpra 59 mentions Vāc's opinion according to which K 170 cannot apply to all three kinds of a reply by way of exception.
151.3-155.3	The whole paragraph is very freely quoted Vpra 65-66, to such an extent that whole passages have been displaced.
175.1	Vta 217 ascribes Vāc's third interpretation of K 219 to MAITHILĀḤ.
177.1	Vpra 99 refers to and refutes this interpretation of K 473, as given by CAṆḌEŚVARA and Vāc. Cf. 530.7, 730.1.
181.1-2	YVmi 2.7 word by word quotes this point of view of MIŚRĀḤ, as against

that of SĀMPRADĀYIKĀḤ.

270.1-2 Vpra 113 quotes the whole line, as against the explanation of Mra 40.

277.3-278.5 Vpra 114-15 quotes Vāc's way of reconciling Y 2.78 and K 359. It is followed by the interpretation of Mra 47, and by MITRA MIŚRA's own point of view.

428.1-37 The conclusion of this discussion is briefly summarized YVmi 2.79. It is followed by a passage which corresponds to 432.2-5 without Vāc's name being mentioned again.

469.2-4 The passage is quoted verbatim and refuted Vpra 164.

484.1 This interpretation of ā̲g̲a̲m̲a̲ is quoted Vta 225 under the name of MAITHILĀḤ.

485.1 Vta 225 quotes this reading of B 7.39d by MAITHILĀḤ as against that of ŚŪLAPĀṆI: p̲a̲u̲t̲r̲a̲d̲i̲ṣ̲u̲ ̲n̲a̲ ̲k̲i̲ṃ̲c̲a̲n̲a̲.

492.1 The explanation of the word v̲i̲v̲ā̲h̲y̲a̲ is quoted Dāta 180.

530.7 Vāc's interpretation is referred to Vpra 99.
Cf. 177.1, 730.1.

530.8 Cf. 730.2-731.

616 This verse from JYOTIṢAM is quoted via Vyci in Prta 474 and 512.

690.1 Vpra 221 mentions and refutes Vāc's opinion that oaths are different from ordeals.

699.1-2 The whole line is quoted Vma 88.3.

706.2 The words a̲b̲h̲i̲y̲u̲k̲t̲a̲s̲y̲ā̲° etc., are quoted Vma 88.15.

730.1 Cf. 530.7.

730.1-731 Vāc's second explanation of the verse from N is referred to Vpra 99.
Cf. 530.8.

A P P E N D I X D

GLOSSARIAL INDEX OF TECHNICAL TERMS IN SANSKRIT ON THE SUBJECT OF LEGAL PROCEDURE.

- - - -

akṛta. an un-appointed (witness) 247. Opp. kṛta.

agni, the ordeal of fire 539, 541. Also agniparīkṣā 601, and agniśodhana 613. Syn. hutabhuk, hutāśa(na).

ajñānābhidhāna, a declaration of ignorance (by witnesses) 425.3.

adṛṣṭa, supernatural (evidence, trial) 184.1, 187.3, 191.2. Syn. daiva, daivika. Opp. dṛṣṭa.

adhikābhidhāna, a declaration of a larger amount (by witnesses) 425.3.

adhyakṣa, the chief justice 32.5, (a witness de auditu) 245. Syn. prāḍvivāka.

adhyadhīna, a subordinate 782.1. Syn. asvatantra.

anapekṣitābhidhāna, an inapposite declaration (by witnesses) 425.2.

anabhidhāna, (complete) absence of declaration (by witnesses) 425.2.

anāgama, (possession) not supported by a title 462. Opp. sāgama.

anādeya, an unacceptable, barred (case) 61, 63, 113.

anigada, an invalid deposition (of witnesses) 426.7. Opp. nigada 2.

anuttara, 1 an invalid reply 150. - 2 (legal procedure) not attended with a wager 55. Opp. sottara, sapaṇa.

anupabhoga, non-possession, failure to actively use 465.3, 503.2. Syn. abhukti. Opp. upabhoga.

anumāna, inferential evidence 171, circumstantial evidence 217.2, = pratyākalita 202.1.

anuśiṣṭa, cf. definition 81.2, 737.3.

aprāptavyavahāra, a minor (less than sixteen years old) 71.3. Opp. vyavahārajña.

abhiyukta, 1 the accused, the defendant 130. Syn. abhiyojya, arthin 2, ākṣipta, uttaravādin, prativādin, pratyarthin, vādin 2. - 2 an expert (to be consulted in the court) 32.7. - 3 a person appointed (by a party to undergo an ordeal

in his place) 645.

abhiyoktṛ, the plaintiff 83, 86, 130. Syn. arthin 1, ākṣeptṛ, pūrvavādin, pūrvāvedaka, bhāṣitṛ, vādin 1, sthāpaka.

abhiyoga, 1 the plaint, the accusation 130.1, 130.2. Syn. arthivāda, pakṣa 1, pūrvapakṣa, pūrvavāda, pratijñā 1, bhāṣā. - 2 the plaint-amount 708.

abhiyojya, the accused, the defendant 729.1. Syn. see abhiyukta.

abhukti, non-possession, failure to actively use (land, etc.) 479. Syn. anupabhoga. Opp. bhukti.

arthin, 1 the plaintiff 64.2, 65, 67.1. Syn. see abhiyoktṛ. - 2 the defendant 118.9. Syn. see abhiyukta. - 3 a party (the plaintiff or the defendant) 168.1. Syn. vādin 3.

arthivāda, the statement of the plaintiff, the plaint 59.2. Syn. see abhiyoga.

avaṣṭambha, 1 (a high degree of) certainty 648.1. - 2 the haughtiness (of the plaintiff) 708.

avasanna, defeated 148.2, 208. Cf. (parā)jita, bhaṅgin, hīna.

avaskanda, a reply by way of exception 136. Syn. pratyavaskandana 1.

aśiras, (an ordeal in which) no party is willing to undergo punishment 586. Opp. śiras.

asākṣin, an incompetent witness 273, 275. Opp. sākṣin 2.

asākṣipratyaya, (a case) provable without witnesses 531, 534.

asmārtakāla, beyond the time of memory 483. Cf. note 483.6. Opp. smārtakāla.

asvatantra, dependent 758. Opp. svatantra.

asvātantrya, dependence 762.1. Opp. svātantrya.

ākṣipta, the defendant 83.1. Syn. see abhiyukta.

ākṣeptṛ, the plaintiff 83.1. Syn. see abhiyoktṛ.

āgama, a title 97.1, 452.2.

ācāra, legal procedure 148.1, 214.1. Syn. vyavahāra 1.

āpas, the ordeal of water 681. Syn. udaka, jala, toya, salila.

āseddhṛ, (the plaintiff) who detains (the defendant) 67.1.

āsedha, detention (of the defendant) 67, 68.

āsedhakāla, the proper time for detention 67.

āhvāna, the summons 66.

uttara, the reply 90, 92.11, (etymology) 134.6. Syn. uttaravākya, pratipakṣa, prativākya.

uttarapāda, the part of the reply (the second part of legal procedure) 2, 58, 87, 115.3.

uttaravākya, the reply 182.1. Syn. uttara, pratipakṣa, prativākya.

uttaravādin, the defendant 59.5, 148.4. Syn. see abhiyukta.

uttarasākṣin, an indirect witness 241, 242.

uttarābhāsa, a fallacy of the reply 149.4.

udaka, the ordeal of water 539, 541. Syn. āpas, jala, toya, salila.

upadeśa, general instruction, introductory rule 2, 2.1. Syn. Vyavahāramukha. Cf. note 2.

upadhā, an artifice 522.1. Syn. yukti.

upabhoga, possession 486. Syn. bhukti, bhoga. Opp. anupabhoga.

ṛṇapattra, a document of debt 441.2.

karaṇa, the court 28.1, 29, 78.1. Syn. sabhā.

kāraṇa, 1 the cause or probans of the plaint 90.4, 182.1. - 2 an exception, a special plea (which deletes the probandum of the plaint) 141.29. - 3 the reply containing such exception 138.3. Syn. kāraṇottara. - 4 evidence 724.2.

kāraṇokti, a reply by way of exception 149. Syn. kāraṇa 3, kāraṇottara.

kāraṇottara, a reply by way of exception 141.28. Syn. kāraṇa 3, kāraṇokti.

kārya, a case, a lawsuit 7.

kāryamadhyagata, (a witness) who has been initiated into the transaction 243.

kāryin, a litigant 7.

kāla, delay, adjournment (of the reply) 119, (or of the deposition of witnesses) 169.

kālaharaṇa, delay, adjournment (of the deposition of witnesses) 315.

kula, a family-court 32.1.

kulya, a related (witness) 238.

kūṭa°, °sabhya, a false judge 336; - °sākṣin, a false witness 336; - °sākṣya, false evidence, false testimony 403 (also kauṭasākṣya, 751).

kṛta, an appointed (witness) 247. Opp. akṛta.

kṛtanivṛtti, the annulment of accomplished acts 750.7.

kośa, the ordeal of the holy water 539, 541. Also kośapāna 583.1.

krayapattra, a document of purchase 441.2.

kriyā, 1 the trial (the third part of legal procedure) 112, 167.4. Syn. kriyāpāda. - 2 the burden of proof 146. - 3 evidence 170, 483.7. Syn. pramāṇa.

kriyākāra, a judicial act 322.8. Syn. vyavahāra 1.

kriyāpāda, the part of the trial (the third part of legal procedure) 2, 58, 87, 167.3. Syn. kriyā 1.

gaṇa, (a court of) the association of brāhmaṇas 32.3.

gaṇaka, the accountant (a member of the court) 26.

gūḍha, a secret (witness) 236.

grāma, the inhabitant of a village (a witness) 246.

catuṣpād, having four feet, four parts (refers to the four parts of legal proce-

dure: bhāṣā°, uttara°, kriyā°, and nirṇaya° (or pratyākalitapāda) 2, 58,59, 87.

carita, custom 696, 698.

caritra, custom (one of the four types of legal procedure) 712, 717.3.

codanā pratikālam, a timely injunction 525.1.

codanāpratighāta, retorting the injunction 529.

chala, 1 sophistry (to be avoided in legal procedure) 141.18. Cf. vākchala. - 2 defeat 214.2.

jaya, victory 73. Syn. vijaya. Opp. parājaya, bhaṅga, hāni 2.

jayapattra, the certificate of the decree 179, 191.3. Syn. (?) paścātkāra. Cf. note 198.2.

jayin, victor 195. Opp. (parā)jita, bhaṅgin.

jayipratipatti, the proclamation of the winner 731.2.

jala, the ordeal of water 621. Syn. āpas, udaka, toya, salila.

jita, defeated 148. Syn. parājita, bhaṅgin. Cf. avasanna, hīna. Opp. jayin.

jñātṛ, a witness 205. Syn. sākṣin 1.

jyāyas, an elder person 782.4. Syn. svatantra.

taṇḍula, the ordeal of rice 541.

taptamāṣa(ka), the ordeal of the hot piece of gold 541, 649.

tīrita, cf. definition 81.1, 737.1-2.

tulā, (the ordeal of) the balance 546. Syn. dhaṭa.

toya, the ordeal of water 620. Also toyaśuddhi 624. Syn. āpas, udaka, jala, salila.

tyāga, relinquishment (of property) 501.25.

tripuruṣa(bhoga), (possession) held for three generations 202, 455.1.

dānapattra, a document of gift 441.2.

divya, ordeal 173, 537.5.

dūta, a servant (who watches the party who has offered no surety) 80.

dūtaka, a messenger (a witness) 239.

dūṣaṇa, disqualification (of witnesses) 307.1, 309.

dṛṣṭa, natural (evidence) 141.18, 191.1, 191.2, 228.1. Syn. mānuṣa. Opp. adṛṣṭa.

daiva = daivika, divine (evidence, trial) 170, 174, 179.9. Syn. adṛṣṭa. Opp. mānuṣa.

draṣṭṛ, (a witness) de visu 246.1.

dhaṭa, the ordeal of the balance 539, 541. Syn. tulā.

dharma, sacred law (one of the four types of legal procedure) 712, 713.

dharmaja, the ordeal of dharma 542. Also dharmaśodhana 660.

dharmastha, a judge (any person who investigates the case) 205. Syn. vicāraka.

nigada, 1 the deposition (of witnesses in general) 424.1. - 2 a valid deposition (of witnesses) 423.4. Opp. anigada.

niruttara, incapable of producing a valid reply 162.

nirṇaya, the decision (the fourth part of legal procedure) 2, 695.4. Syn. vinirṇaya.

nirṇītakṛtya, proceedings following after the decision 719.4.

nisṛṣṭārtha, a person who has been authorized (to effect certain transactions) 779.1.

nṛpājñā, a royal decree 696, 718. Syn. rājaśāsana.

nyūnābhidhāna, a declaration of a lesser amount (by witnesses) 425.3.

pakṣa, 1 the plaint (in general) 88, 90, 90.1, 90.2, 94, 113. - 2 the subject of the plaint (as the minor term of an inference) 92.5. - 3 See the different interpretations of the term in connection with the requirement of the reply to be pakṣasya vyāpakam 133.1, 134.8, 134.9.

pakṣābhāsa, a fallacy of the plaint 103.1.

pañcāṅga, (possession) fulfilling five requirements 452.

paṇa, a wager 55, 56.

parājaya, defeat 73, 138.8. Syn. bhaṅga, hāni 2. Opp. (vi)jaya.

parājita, defeated 206. Syn. jita, bhaṅgin. Cf. avasanna, hīna. Opp. jayin.

parīkṣaṇa = parīkṣā, testing (of witnesses as to their competence) 298.3, 301, 397.1.

paścātkāra, the act following after the decree, viz. the certificate of the decree, etc. 198.1, 736.1. Syn. (?) jayapattra. Cf. note 198.2.

punardarśana = punarnyāya, a review of judgment 198.6, 438.2, 736.5.

puruṣa, the royal servant (a member of the court) 27.

pūrvanyāyavidhi, the rule of former judgment 135. Syn. prāṅnyāya.

pūrvapakṣa, the prima facie view, the plaint 58, 64.1, 103. Syn. see abhiyoga.

pūrvavāda, the fact of speaking first, the plaint 185. Syn. see abhiyoga.

pūrvavādin, he who speaks first, the plaintiff 90, 149. Syn. see abhiyoktṛ.

pūrvāvedaka, he who reports first, the plaintiff 117 (although the fact of his reporting first does not invariably involve the party to be the plaintiff 64.4). Syn. see abhiyoktṛ.

pratijñā, 1 the plaint (in general) 93, 167. Syn. see abhiyoga. - 2 the statement (cf. the first member of the syllogism) either of the plaint 96, 100.2, or of the reply 157.2. Also pratijñāta(artha), what has been stated (by the defendant) 118.10.

pratinidhi, 1 a representative (in law) 72.3, 74.2. - 2 a substitute to undergo an ordeal 640.1.

pratipakṣa, the reply 134. Syn. uttara(vākya), prativākya.

pratipatti, (a reply by way of) confession 136. Syn. satya, sampratipatti.

pratibhū, a surety (to be taken for both parties) 79, 80.

prativākya, the reply 158, 182. Syn. uttara(vākya), pratipakṣa.

prativādin, 1 the defendant 90, 118.9, 144, 146, 179. Syn. see abhiyukta. - 2 the representative (of the party in the court) 77.

pratyakṣanirṇaya, a decision by direct perception 537.4.

pratyabhiyoga, a counterclaim 132.

pratyarthin, the defendant 59.3, 68.1, 85, 101. Syn. see abhiyukta.

pratyavaskandana, 1 a reply by way of exception (in general) 59, 135, 137. Syn. avaskanda. - 2 a reply by way of a stronger exception 141.36, 142.1.

pratyākalita, 1 the last of the four parts of legal procedure, the assignment of victory and defeat 87, 138.8. - 2 inference 202.1. Syn. anumāna. Cf. note 87.

pramāṇa, evidence, valid means of proof 145.2, 200. Syn. kriyā 3.

pramāṇāntarānusaraṇa, collecting further evidence (before making a decision) 425.4. Syn. mānāntarānusaraṇa.

prāgvṛttavādin, he who maintains that the case has come up before, he who pleads former judgment 191.

prāḍvivāka, the chief judge 9, 83, (etymology) 24, 25. Syn. adhyakṣa.

prāṅnyāya(uttara), a reply by way of former judgment 59, 137, 147.3. Syn. pūrvanyāyavidhi.

phāla, the ordeal of the ploughshare 542. Also phālāvalehana 660.

bhaṅga, the loss (of the case) 118.6, 167.4, 228.1. Syn. parājaya, hāni 2. Opp. (vi)jaya.

bhaṅgin, the loser (of the case) 129.2. Syn. (parā)jita. Cf. avasanna, hīna. Opp. jayin.

bhāgapattra, a document of partition 441.2.

bhāṣā, the plaint 91.1, 114.2. Syn. see abhiyoga.

bhāṣāpāda, the part of the plaint (the first part of legal procedure) 2, 87, 87.1.

bhāṣitṛ, the plaintiff 118.8. Syn. see abhiyoktṛ.

bhukti, possession 202, 451.2. Syn. (upa)bhoga.

bhoktṛ, the possessor 464.11 (as against svāmin, the owner).

bhoga, possession 458. Syn. bhukti, upabhoga.

madhyastha, 1 the intermediary (who is to guard the object of the dispute during the trial) 72.2. - 2 an assessor (in the court) 198.5.

mānāntarānusaraṇa, collecting further evidence 426.11. Syn. pramāṇāntarānusaraṇa.

mānuṣa, human (evidence, trial) 170. Syn. dṛṣṭa. Opp. daiva, daivika.

mithyā, (a reply by way of) denial 137, 179.1. Syn. mithyokti, mithyottara.

mithyābhiyoga, a false accusation 313.

vyavahārin, a litigant 503.

śapatha, 1 the oath 173, 686.5. - 2 supernatural evidence (in general, i.e., oath + ordeal) 522, 524, 529.6, 696.

śāntva, gentle words (to be used in the court to appease the anger of brāhmaṇas) 36.1.

śāsana, a (royal) patent (a document) 443.1.

śiras, (an ordeal in which) a party is willing to undergo punishment 589. Opp. aśiras.

śirovādin = śīrṣakastha, (a party who is) willing to undergo punishment 586, 545.

śīrṣapravartana, the appearance of (a party) who is willing to undergo punishment 593.

śrutasākṣin, a witness de auditu 432.2. Syn. śrotṛ.

śreṇi, (a court of) the association of merchants 32.3.

śrotṛ, (a witness) de auditu 246.1. Syn. śrutasākṣin.

satya, (a reply by way of) confession 135, 153. Syn. (sam)pratipatti.

satyāpavāda, an exception to (the obligation to speak) the truth 415.2.

sadasya, an assessor (in the court) 83. Cf. sabhāsad.

sapaṇa, (a case) attended with a wager 430. Syn. sottara. Opp. anuttara.

sabhā, the court, the hall of justice 7, 29.1. Syn. karaṇa.

sabhāsad, an assessor (in the court) 45, 47, 193. Cf. sadasya.

sabhya, the judge (in the royal court) 6.

samaya, an ordeal 654.1. Syn. divya.

sampratipatti, (a reply by way of) confession 59, 137. Syn. pratipatti, satya.

salila, the ordeal of water 618. Syn. āpas, udaka, jala, toya.

sākṣin, 1 a witness 129, 229.2, (etymology) 231. - 2 a competent witness 304. Opp. asākṣin.

sākṣiśapatha, the oath of witnesses 355.1.

sākṣya, testimony, the deposition of witnesses 305.

sāgama, (possession) supported by a title 452. Opp. anāgama.

sādhya, the probandum (of the plaint) 88, 90.1, 92.5, 136.

sāpadeśamithyottara, a reply by way of a denial with a pretext 141.11.

sottara, (a case) attended with a wager 55, 56. Syn. sapaṇa. Opp. anuttara.

sthāpaka, the plaintiff 141.19. Syn. see abhiyoktṛ.

sthāpanā, the statement (of the plaint) 144.5.

smārita, a reminded (witness) 237.

smārtakāla, within the time of memory 483. Opp. asmārtakāla. Cf. note 483.6.

svatantra, independent 759. Opp. asvatantra.

svatva, property 501.5 (as against bhukti, possession).

svayamukti, a deposition suo motu 273, 279.

svātantrya, independence 767. Opp. asvātantrya.

svāmin, the owner, the proprietor 458.2 (as against bhoktṛ, the possessor).

hāni, 1 the loss (of property through adverse possession) 463 (differently interpreted by the commentators). - 2 the loss (of a case) 211. Syn. parājaya, bhaṅga. Opp. (vi)jaya.

hīna, the loser (of a case) 206.2, 209. Cf. avasanna, (parā)jita, bhaṅgin.

hutabhuk = hutāśa(na), the ordeal of fire 681, 617, 710. Syn. agni.

hetu, 1 the probans (of the plaint) 92.5, 100.2 (or of the reply) 157.3. - 2 reason, motive, equity, circumstance, inference 217.2, 697.